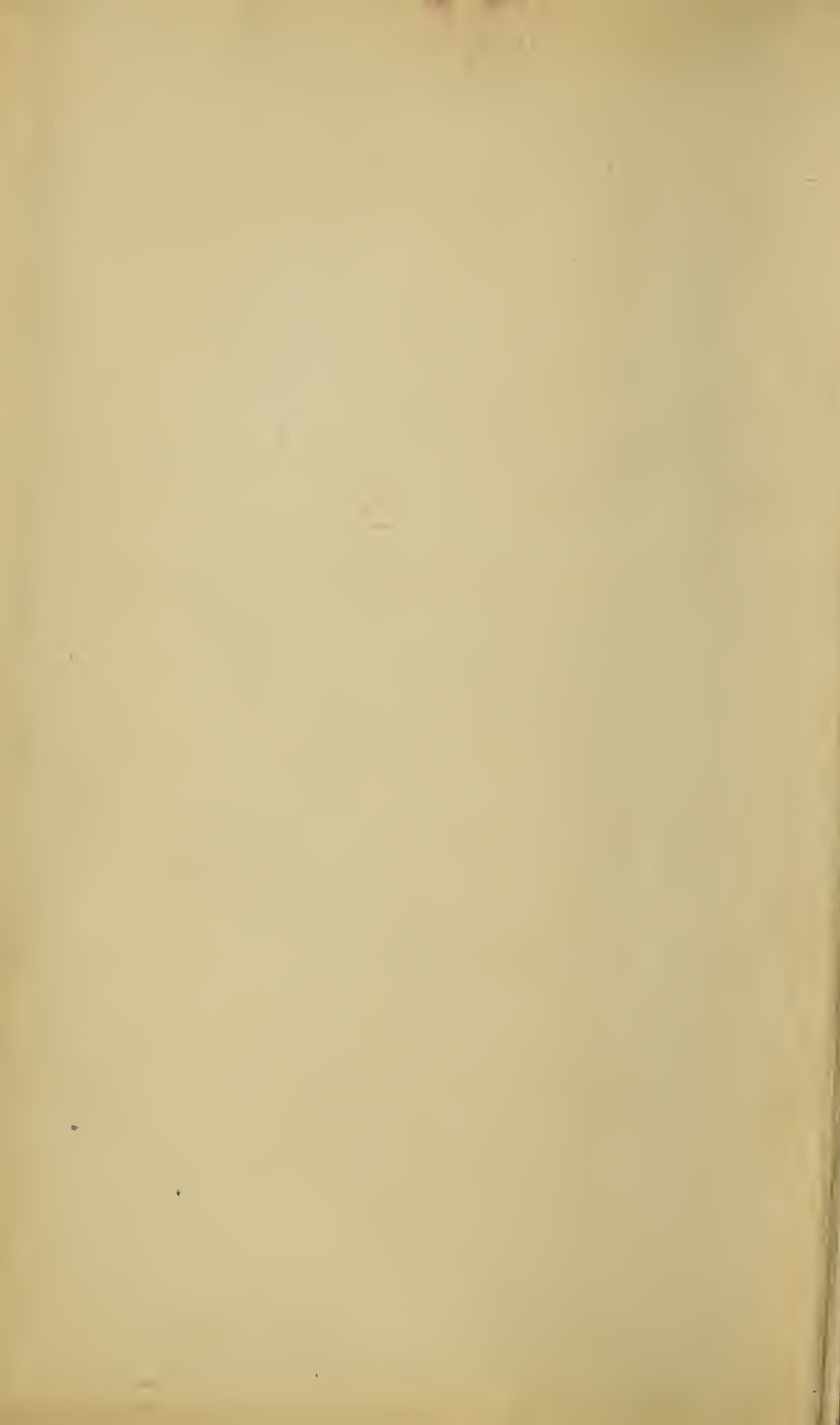


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The Law's Lumber Room

The rusty curb of old father antic—the law

FALSTAFF

The Law's Lumber Room

By
Francis
Watt

Second Series

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Prefatory

THIS is an entirely distinct book from the first series of the Law's Lumber Room. The subjects are of more general interest, they are treated with greater fulness of detail, most are as much literary as legal; but I have thought it best to retain the old name. No other seemed so briefly and so truly descriptive of papers which tell what the law and its ways once were, and what they have ceased, one may reasonably suppose, for ever to be.

I make two remarks. There is a great deal of hanging in this book; that is only because those were hanging times. The law had no thought of mending the criminal; it ended him in the most summary fashion. The death of the chief actors was as inevitably the finish of the story as it is in a modern French novel.

Again, in pondering those memories of the past, one realises how much, in other things than mechanical invention, our time is unlike all that went before. This is not the commonplace it seems, for not easily do we realise how far the change has gone.

*Under the sway
Of Death, the past's enormous disarray
Lies hushed and dark.*

Details such as make up this volume have this merit: they bring the antique world before us, and the net result seems to be this: we lead better lives, we are more just and charitable, perhaps less selfish than our forefathers, but how to deny that something is lost? for life is not so exciting, and our annals are anything but picturesque.

These papers were originally published in The New Review, The Yellow Book, and The Ludgate. I have made very considerable additions to most of them, and all have been carefully revised.

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Tyburn Tree

Its Exact Position not known—Near the Marble Arch—
Fanciful Etymologies—The Last Days of the Old-
Time Criminal—Robert Dowe's Bequest—Execu-
tion Eve—St. Sepulchre's Bell—The Procession—
St. Giles's Bowl—At Tyburn—Ketch's Perquisites—
The Newgate Ordinary—The Executioner—Ty-
burn's Roll of Fame—Catholic Martyrs—Cromwell's
Head—The Highwaymen—Lord Ferrers—Dr. Dodd
—James Hackman—Tyburn in English Letters.

TO-DAY you cannot fix the exact spot where Tyburn Tree raised its uncanny form. To the many it was the most noteworthy thing about Old London, yet while thousands who had gazed thereon in fascinated horror were still in life, a certain vagueness was evident in men's thoughts, and, albeit antiquaries have keenly debated the *locus*, all the mind is clouded with a doubt, and your carefully worked out conclusion is but guesswork. There is reason manifold for this. Of old time the populous district known as

Tyburnia was wild heath intersected by the Tyburn Brook, which, rising near Hampstead, crossed what is now Oxford Street, hard by the Marble Arch, and so on to Chelsea and the Thames. Somewhere on its banks was the Middlesex gallows. It may be that as the tide set westward the site was changed. Again, the wild heath is now thick with houses; new streets and squares have confused the ancient landmarks; those who dwelt therein preferred that there should not be a too nice identification of localities. How startling the reflection that in the very place of your dining-room, thousands of fellow-creatures had dangled in their last agonies! How rest at ease in such a chamber of horrors? The weight of evidence favours (or disfavours) No. 49 Connaught Square. The Bishop of London is ground landlord here; and it is said that in the lease of that house granted by him the fact is recorded that there stood the "Deadly Never-Green." Such a record were purely gratuitous, but the draftsman may have made it to fix the identity of the dwelling. But to-day the

Square runs but to No. 47. Some shuffling of numerals has, you fancy, taken place to baffle indiscreet research. However, you may be informed (in confidence) that you have but to stand at the south-east corner of the Square to be "warm," as children say in their games.

Let these minutiae go. Tyburn Tree stood within a gunshot to the north-west of the Marble Arch. Its pictured shape is known from contemporary prints. There were three tall uprights, joined at the top by three cross-beams, the whole forming a triangle. It could accommodate many patients at once, and there is some authority for supposing that the beam towards Paddington was specially used for Roman Catholics. In the last century the nicer age objected to it as an eyesore; and it was replaced by a movable structure, fashioned of two uprights and a cross-beam, which was set up in the Edgware Road at the corner of Bryanston Street, and which, the grim work done, was stored in the corner house, from whose windows the sheriffs superintended executions. To accommodate genteel spectators

there were just such stands as you find on a racecourse, the seats whereof were let at divers prices, according to the interest excited. In 1758, for Dr. Henesey's execution as arch-traitor, the rate rose to two shillings and two and sixpence a seat. The Doctor was "most provokingly reprieved," whereat the mob in righteous indignation arose and wrecked the stands. Mammy Douglas, a woman who kept the key of one of these stands, was popularly known as "the Tyburn pew-opener."

Fanciful etymologists played mad pranks with the name. In Fuller's *Worthies*, *Tieburne* is derived on vague authority from "Tie" and "Burne," because the "poor Lollards" there "had their necks *tied* to the beame and their lower parts *burnt* in the fire. Others" (he goes on more sensibly) "will have it called from *Twa* and *Burne*, that is two rivulets, which it seems meet near the place." And then it was plainly a *Bourn* whence no traveller returned! Most probably it is a shortened form of *The*, or *At the Aye Bourne* (= 't *Aye-bourne* = *Tyburn*)

or Brook already denoted. Tyburn was not always London's sole or even principal place of execution. In early times people were hanged as well as burned at Smithfield. The elms at St. Giles's were far too handy a provision to stay idle. At Tower Green was the chosen spot for beheading your high-class criminal, and it was common to put off a malefactor on the very theatre of his malefaction. There are few spots in Old London which have not carried a gallows at one or other time. Some think that certain elm-trees suggested the choice of Tyburn. In the end it proved the most convenient of all, being neither too near nor too far; and in the end its name came to have (as is common with such words) a general application, and was applied at York, Liverpool, Dublin, and elsewhere, to the place of execution.

To-day the criminal's progress from cell to gallows is an affair of a few minutes. To an earlier time this had savoured of indecent haste. Then, the way to Tyburn, long in itself, was lengthened out by the observance of a complicated ritual, some of it of ancient

origin. Let us follow "the poor inhabitant below" from the dock to the rope. To understand what follows one must remember that two distinct sets of forces acted on his mind:—on the one hand, the gloom of the prison, the priest's advice, the memory of mis-spent days, the horror of doom; on the other, the reaction of a lawless nature against a cruel code, the resolve to die game, the flattering belief that he was the observed of all observers, and perhaps a secret conviction that the unknown could be no worse than the known. According as the one set or other prevailed he was penitent or brazen, the Ordinary's darling or the people's joy. Well, his Lordship having assumed the black cap and pronounced sentence of death, the convict was forthwith removed to the condemned hold in Newgate. There he was heavily fettered, and, if of any renown as a prison-breaker, chained to a ring in the ground. Escape was not hopeless. Friends were allowed to visit and supply him with money, wherewith he might bribe his keepers; and the prison discipline, though cruel, was

incredibly lax (Jack Sheppard's two escapes from the condemned hold, carefully described by Ainsworth, are cases in point). To resume, our felon was now frequently visited by the Ordinary, who zealously inquired (from the most interested motives) into his past life, and admonished him of his approaching doom. At chapel o' Sundays he sat with his fellows in the condemned pew, a large dock-like erection painted black, which stood in the centre, right in front of and close to the ordinary's desk and pulpit. For his last church-going the condemned sermon was preached, the burial service was read, and prayers were put up "especially for those awaiting the awful execution of the law." The reprieved also were present, and the chapel was packed with as many spectators as could squeeze their way in.

Now, our old law was not so bad as it seemed. True, the death-penalty was affixed to small offences; but it was comparatively rarely exacted. In looking over Old Bailey sessions-papers of from one to two centuries ago, I am struck with the number of

acquittals—brought about, I fancy, by the triviality of the crime, not the innocence of the prisoner—and jurors constantly appraised the articles at twelve pence or under to reduce the offence to petty larceny, which was not capital, and after sentence each case was carefully considered on its merits by the King in Council (the extraordinary care which George III. gave to this matter is well known : he was often found pondering sentences late into the night). Only when the offender was inveterate or his crime atrocious was the death-penalty exacted. In effect, cases now punished by long terms of penal servitude were then ordered for execution. I don't pretend to say whether or no to-day's plan may be the more merciful. We have, on the authority of the Newgate Ordinary, a list between 1700 and 1711. Of forty-nine condemned in one year, thirty-six were reprieved and thirteen executed, in another year thirty-eight were condemned, twenty were reprieved, and eighteen were executed; the highest annual return of executions during that period was sixty-six, the lowest five. An Act

of 1753 (25 Geo. II., c. 37) provided for the speedy exit and dissection of murderers ; but the fate of other felons might hang dubious, as weeks often elapsed without a Privy Council meeting. The Recorder of London brought up the report from Windsor. When it reached Newgate, usually late at night, the condemned prisoners were assembled in one ward. The Ordinary entered in full canonicals and spoke his fateful message to each kneeling wretch. "I am sorry to tell you it is all against you," would fall on one man's trembling ears ; while "Your case has been taken into consideration by the King and Council and His Majesty has been mercifully pleased to spare your life," was the comfortable word for another. The reprieved now returned thanks to God and the King ; the others, all hope gone, must return to the condemned hold.

There broke in on them here, during the midnight hours on the eve of their execution, the sound of twelve strokes of a hand-bell, the while a doleful voice in doleful rhyme addressed them :

You prisoners that are within,
Who for wickedness and sin . . .

Here the rhyme failed ; but in not less dismal prose the voice admonished them that on the morrow "the greatest bell of St. Sepulchre will toll for you in the form and manner of a passing bell " ; wherefore it behoved them to repent. In later years the songster procured himself this rigmarole :—

Prepare you, for to-morrow you shall die.
Watch all and pray, the hour is drawing near
When you before th' Almighty must appear.
Examine well yourselves ; in time repent,
That you may not th' eternal flames be sent.
And when St. 'Pulcre's bell to-morrow tolls,
The Lord have mercy on your souls !
Past twelve o'clock.

Now this iron nightingale was the sexton or his deputy of St. Sepulchre's, hard by Newgate ; and his chant originated thus. In the early seventeenth century there flourished a certain Robert Dowe, "citizen and merchant taylor of London " ; he disbursed much of his estate to various charities, and in especial gave one pound six shillings and

eight pence yearly to the sexton of St. Sepulchre's to approach as near as might be to the condemned hold on execution eve, and admonish malefactors of their approaching end, as if they were likely to forget it, or as if "Men in their Condition cou'd have any stomach to Unseasonable Poetry," so pertinently observes John Hall (executed about 1708), "the late famous and notorious robber," or rather the Grub Street hack who compiled his *Memoirs*. The rhymes were, so the same veracious authority assures us, "set to the Tune of the Bar-Bell at the Black Dog," and their reception varied. Hall and his companions (but again you suspect Grub Street) paid in kind with verse equally edifying, and, if possible, still more atrocious. Most, you fancy, turned again to their uneasy slumbers with muttered curses. Not so Sarah Malcolm, condemned in 1733 for the cruel murder of old Mrs. Duncombe, her mistress. An unseasonable pity for the sexton croaking his platitudes in the raw midnight possessed her mad soul. "D'ye hear, Mr. Bellman?" she bawled, "call for a

Pint of Wine, and I'll throw you a Shilling to pay for it." How instant his changed note as the coin clinked on the pavement! Alas! no record reports him thus again refreshed.

But *Venit summa dies et ineluctabile fatum* (a tag you may be sure the Ordinary rolled off to any broken-down scholar he had in hand); and our felon's last day dawns. He is taken to the Stone Hall, where his irons are struck off; then he is pinioned by the yeoman of the halter, who performs that service for the moderate fee of five shillings (rope thrown in). At the gate he is delivered over to the Hangman (who is not free of the prison), and by him he is set in the cart (a sorry vehicle drawn by a sorry nag in sorry harness), his coffin oft at his feet, and the Ordinary at his side, and so, amidst the yells of a huge mob and to the sad accompaniment of St. Sepulchre's bell, the cart moves westward. Almost immediately a halt is called. The road is bounded by the wall of St. Sepulchre's Churchyard, over the which there peers our vocalist of yester-eve, who

takes up his lugubrious whine anew:—"All good people pray heartily with God for the poor sinners who are now going to their death," with more to the same effect, for all which the poor passenger must once more bless or curse the name of the inconsiderately considerate Dowe. He gave his endowment in 1605, seven years before his death: had some mad turn of fate made him an object of his own charity you had scarce grieved. But now the sexton has done his office to the satisfaction of the beadle of Merchant Tailors' Hall, who "hath an honest stipend allowed him to see that this is duly done," and the cart is again under weigh, when, if the principal subject be popular, a lady (you assume her beauty, and you need not rake the rubbish of two centuries for witness against her character) trips down the steps of St. Sepulchre's Church and presents him with a huge nosegay. If nosegays be not in season, "why, then," as the conjuror assured Timothy Crabshaw, squire to Sir Launcelot Greaves, "an orange will do as well." And now the cart rumbles down steep and strait Snow

Hill, crosses the Fleet Ditch by narrow Holborn Bridge, creaks up Holborn Hill (the "Heavy Hill," men named it with sinister twin-meaning), and so through Holborn Bars, whilst the bells, first of St. Andrew's, Holborn, and then of St. Giles-in-the-Fields, knell sadly as it passes. In the High Street of the ancient village of that name, Halt! is again the word. Of old time a famous Lazar-House stood here, and hard by those elms of St. Giles, already noted as a place of execution. The simple piety of mediæval times would dispatch no wretch on so long a journey without sustenance. Hence at the Lazar-House gate he was given a huge bowl of ale, his "last refreshing in this life," whereof he might drink at will. The most gallant of the Elizabethans has phrased for us the felon's thoughts as he quaffed the strange draught. On that chill October morning when Raleigh went to his doom at Westminster, some one handed him "a cup of excellent sack," courteously inquiring how he liked it? "As the fellow," he answered with a last touch of Elizabethan wit, "that

drinking of St. Giles's bowl as he went to Tyburn, said:—"That were good drink if a man might tarry by it." The Lazar went, but the St. Giles's bowl lingered, only no longer a shaven monk, but the landlord of the Bowl or the Crown, or what not, handed up the liquor.

Bowl Yard, which vanished into Endell Street, long preserved the memory of this "last refreshing." At York a like custom prevailed, whereof local tradition recorded a quaint apologue. The saddler of Bawtry needs must hang—why and wherefore no man knoweth. To the amazement and horror of all he most churlishly refused the proffered bowl. Pity was but wasted (so our forefathers thought) on such a fellow. Before a dry-eyed crowd he was strung up with the utmost dispatch, but a reprieve arriving, was cut down just as quickly. All too late, however! He was done with this world. Had he but reasonably tarried, as others did, for his draught, he had died in his bed like many a better man. Hence the rustic moralist taught how the saddler of

Bawtry was hanged for leaving of his ale. The compilers of the Sunday school treatises have scandalously neglected this leading case of lost opportunities. Nay, though a pearl "richer than all his tribe," you shall search the works of Dr. Smiles for it in vain.

But the day wears on, and our procession must farther westward along Tyburn Road (now Oxford Street). It is soon quit of houses; yet the crowd grows ever denser, and, though Tyburn Tree stands out grim and gaunt in our view, it is some time ere the cart pulls up under the beam. Soon the halter is fixed, and the parson says his last words to the trembling wretch. And now it is proper for him to address the crowd, confessing his crimes, and warning others to amend their ways. If a broken-down cleric or the like, his last devotions and dying speech are apt to be prosy and inordinate; so that the mob jeers or even pelts him and his trusty Ketch himself. Or "some of the Sheriff's officers discovering impatience to have the execution dispatched" (thus Samuel Smith, the Ordinary of a case in 1684), Jack

cuts things short by whipping up his horses and leaves his victim dangling and agape. More decorously the cap is drawn over his face, and he himself gives the signal to turn off. The Hangman, if in genial mood, now stretches the felon's legs for him, or thumps his breast with the benevolent design of expelling the last breath; but the brute is usually too lazy or too careless, and these pious offices are performed by friends.

The accessories of such a last scene are preserved in Hogarth's *Apprentice Series*. One of the crowd is picking a pocket, and you foresee him ending here some day soon. (Is it not told of one rascal, that he urged on the attendants his right to a near view, since, sure of hanging some day, he naturally wished to see how it was done?) Another in the crowd is bawling, a trifle prematurely, the last speech and dying confession of Thomas Idle. Verses commemorative of the occasion were sold broadcast. "Tyburn's elegiac lines," as you may suppose, were sad doggerel. Here is the concluding portion of a specimen (*temp. circa 1720*):

Fifteen of us you soon will see
Ending our days with misery
At the Tree, at the Tree.

Even at Tyburn, how hard to renounce all hope! There was ever the chance of a reprieve. There is at least one well-authenticated case of a man making a sudden bolt from the cart, and almost escaping; and, as the *modus* was simple strangulation, and the Hangman careless or corrupt, it was just possible that heroic remedies might restore to animation. On December 12, 1705, John Smith was turned off, and hung for a quarter of an hour. A reprieve arriving, he was cut down, and coaxed back to life. More remarkable was the case of William Duell, in 1740. To all appearance thoroughly well hanged, he was carried off for dissection to Surgeons' Hall, where he presently recovered himself. He was, somewhat cruelly, restored to Newgate, but was let off with transportation. The law was not always so merciful. In another case, the sheriff's officers, having heard that their prey was again alive and kicking, hunted the

wretch out, haled him back to Tyburn, and hanged him beyond the possibility of doubt. The rumour of such marvels inspired many attempts at resuscitation. I fancy about one per cent. were successful, but how to tell, since the instance just quoted shows that such triumphs were better concealed?

Now, the *corpus* is essential to the *experimentum*, so half an hour after the turning off, the friends bring up a deal coffin, borne across an unhinged coach door or any such make-shift bier. But Ketch is still in possession: the clothes are Hangman's perquisites, and must be purchased. How the greedy rascal appreciates the value of each button, dwells on the splendour of each sorry ornament, watching the while and gauging the impatience of the buyers! Never went second-hand duds at such a figure! Sometimes he overreaches himself, or no one comes forward to bid. Then the corpse is rudely stripped, "and the Miscellany of Rags are all crushed into a sack which the Valet de Chambre carries on purpose, and being digested into Monmouth

Street, Chick Lane, &c., are comfortably worn by many an industrious fellow." And sometimes the law claims the body to be removed and hung in chains.

In cases of treason, the felon was drawn to Tyburn in a sledge tied to a horse's tail; he was hanged from the cart; but was cut down and dismembered alive. His head went to the adornment of Temple Bar or London Bridge; while his quarters, having been boiled in oil and tar in a cauldron in Jack Ketch's Kitchen, as the room above the central gateway at Newgate was called, were scattered here and there as the authorities fancied. The complete ritual of disgrace was reserved for political offenders. After rebellions Ketch had his hands full. He would tumble out of his sack good store of heads wherewith he and the Newgate felons made hideous sport, preliminary to parboiling them with bay salt and cummin seed: the one for preservation, the other sovereign against the fowls of the air. If the traitor were a woman, she was burned (till 1790); but usually strangled first. Cases are on

record where, with a fire too quick for a Hangman too clumsy, the choking proved abortive and——! The sledge so often supplanted the less ignominious cart, that I ought to explain that a traitor need not be a political offender. Certain coining offences, the murder of a husband by his wife, and of a master by his servant, were all ranked a form of treason, and the criminal was drawn and quartered or burnt accordingly.

Two of Tyburn's officials, the Ordinary and the Hangman, to wit, now claim our attention. The Ordinary, or prison chaplain of Newgate, said "Amen" to the death sentence, and ministered to the convict thence to the end. A terrible duty, to usher your fellow-man from this world into the next! I have heard that one such task near proved fatal to an honest divine; but the hand of little employment hath the daintier sense, and too often the Newgate Ordinary was a callous wretch, with a keen zeal for the profits of his post, and for the rest a mere praying machine. He needs must be good trencherman. It was one of his strange duties to

say grace at City banquets. Major Griffiths, who collects so many curious facts in his *Chronicles of Newgate*, alleges him not seldom required to eat three consecutive dinners without quitting the table. In post-Tyburn days, when they hanged in front of the prison, the governor's daughter used to prepare breakfast for those attending each execution (the *deid clack*, so they called such festivity in Old Scotland). Broiled kidneys were her masterpiece, and she noted that, whilst most of her pale-faced guests could stomach nought save brandy and water, his reverence attacked the dish as one appetised by a prosperous morning's work. Most Ordinaries are clean gone from memory, unrecorded even by *The Dictionary of National Biography*. One (as fly in amber!) the chance reference of a classic now and again preserves.

E'en Guthrie spares half Newgate by a dash,

sneers Pope, referring to an alleged habit of merely giving initials. I have turned over a fair number of the Reverend James Guthrie's

accounts of criminals. In those he always writes the name in full. The witty though himself forgotten Tom Brown scribbles the epitaph of the Reverend Samuel Smith, another Ordinary:—

Whither he's gone
Is not certainly known,
But a man may conclude,
Without being rude,
That orthodox Sam
His flock would not shame.

And to show himself to 'em a pastor most civil,
As he led, so he followed 'em on to the d——l.

And there were the Reverend Thomas Purney, and the Reverend John Vilette, but these be well-nigh empty names. We know most about the Reverend Paul Lorrain, who was appointed in 1698, and died in 1719, leaving the respectable fortune of £5000. A typical Ordinary of the baser sort this; a greedy, gross, sensual wretch, who thrived and grew fat on the perquisites of his office. Among these was a broadsheet, published at eight o'clock the morning after a hanging. It was headed, "The Ordinary of Newgate, his Account of the Behaviour,

Confessions, and Last Speeches of the Malefactors who were executed at Tyburn, the —." It gave the names and sentences of the convicts, copious notes of the sermons (of the most wooden type) he preached at them, biographies, and confessions, and finally the scenes at the gallows. Let the up-to-date journalist cherish Lorrain's name. He was an early specimen of the personal interviewer: he had the same keen scent for unsavoury detail, the same total disregard for the feelings or wishes of his victim, the same readiness to betray confidence; and he had his subject at such an advantage! You imagine the sanctimonious air wherewith he produced his notebook and invited the wretch's statement. With the scene at Tyburn variety in detail was impossible. "Afterwards the Cart drew away, and they were turn'd off," is his formula. You had a good twopenn'orth, such was his usual modest charge! The first page top was embellished with two cuts: on the left Old Newgate Archway, on the right Tyburn Tree. (Gurney affected a quainter design, wherein he stood,

in full canonicals in the centre pointing the way to Heaven, whilst on his left the Fiend, furnished with a trident, squirmed in a bed of flames.) The broadsheet was authenticated by his signature.

Now, two things made the Reverend Paul exceeding wroth. One was the issue of pirated confessions, which were “a great Cheat and Imposture upon the World,” and they would not merely forge his name but mis-spell it to boot! His is “the only true *Account of the Dying Criminals*,” he urgently, and no doubt truly, asserts. All this touched his pocket, hence his ire, which blazed no less against the unrepentant malefactor, who—a scarce less grievous offence—touched his professional pride. He did not mince words:—“he was a Notorious and Hard-hearted Criminal,” or afflicted with brutish ignorance or of an obstinate and hardened disposition. “There is,” he would pointedly remark, “*a Lake of Brimstone, a Worm that dies not, and a Fire which shall never be quenched*. And this I must plainly tell you, that will be your dismal portion there for ever, unless

you truly Repent here in time." And after "Behaviour" in the title of his broadsheets, he would insert, in parentheses, "or rather Misbehaviour." Most of his flock, stupid with terror, passively acquiesced in everything he said. These "Lorrain saints," as Steele called them, received ready absolution at his hands and their reported end was most edifying. But in James Sheppard (the Jacobite), who suffered March 17, 1718, for treason, Lorrain had a most vexatious subject. A non-juring divine, "that Priest or Jesuit, or Wolf in Sheep's clothing," as the Rev. Paul describes him, attended the convict, and the Ordinary's services were quite despised. The intruder, "e'en at the *Gallows*, had the Presumption to give him Publick Absolution, tho' he visibly dy'd without Repentance." Dr. Doran assures us that, on the way to Tyburn, Paul and his supplanter came to fisticuffs, and our Ordinary was unceremoniously kicked from the cart. One would like to believe this entertaining legend, for "the great historiographer," as Pope and Bolingbroke sarcastic-

ally dub him, grows less in your favour the more you scan his sheets. His account of Sheppard concludes with the most fulsome professions of loyalty to the King and the Protestant Succession, for which he is ready to sacrifice his life. You note that he was charged with administering the sacrament for temporal ends, some scandal apparently of shameful traffic in the elements. There is no proof—indeed, we have nothing to go on but his own denial; but it shows the gossip whereof he was the centre. He had ingenious methods of spreading his sale. Thus he tells his readers that a fuller account of a special case will be published along with that of prisoners that go for execution to-morrow. In the case of Nathaniel Parkhurst, hanged May 20, 1715, for the murder of Count Lewis Pleuro, he actually reports the convict on the eve of his execution cracking up in advance the report which his ghostly comforter will presently publish! Strange advertisements fill up the odd corners of his broadsheets. Here he puffs a manual of devotion by

himself; there the virtue of a quack medicine, some sovran remedy for colic, gout, toothache, "The Itch or any Itching Humour." Again, you have "The works of Petronius Arbiter, with Cuts and a Key," or "Apuleius's Golden Ass," or some lewd publication of the day. Even if the advertisements were Paul's publishers', how strange the man and the time that suffered so incongruous a mixture! Our Ordinary petitioned parliament that his precious broadsheets might go free of the paper tax, by reason of their edifying nature!

Turn we now to the Hangman. No rare figure *his* in Old England! Only in later years was he individualised. In James I.'s time a certain Derrick filled the office. The playwrights keep his memory green, and the crane so called is said to take its name from him. Then there came Gregory Brandon, who had "a fair coat of arms," and the title of esquire in virtue of his office. This was through a mad practical joke of York Herald, who, perceiving a solemn ass in Garter King-at-Arms, sent him in the papers

somewhat ambiguously worded, and got the grant in due form. York and Garter were presently laid by the heels in the Marshalsea, "one for foolery, the other for knavery."

Gregory was succeeded by his son, also called Gregory, though his real name was Richard. His infantile amusement was the heading of cats and dogs, his baby fingers seemed ever adjusting imaginary halters on invisible necks; he was "the destined heir, From his soft cradle, to his father's chair"—or rather cart and ladder. The younger Brandon was, it seems quite certain, the executioner of Charles I. Then followed Edward, commonly known as Esquire Dun, and then the renowned Jack Ketch, who went to his ghastly work with so callous a disregard for human suffering, or, as some fancied, with such monstrous glee, that his name, becoming the very synonym for hangman, clave to all his successors. He "flourished" 1663-1686. Dryden calls him an "excellent physician," and commemorates him more than once in his full-resounding line. Some held Catch his true patronymic and Ketch a corruption

of Jacquet, the family name of those who held the Manor of Tyburn during a great part of the seventeenth century, but this, however ingenious, seems too far-fetched. The original Jack was ungracious and surly even beyond the manner of his kind. In January 1686, for insolence to the sheriffs, "he was deposed and committed to Bridewell." Pascha Rose, a butcher, succeeded but getting himself hanged in May Ketch was reinstated. It is recorded that he struck for higher pay—and got it too. You might fancy that any one could adjust the "Tyburn Tippet," or "the riding knot an inch below the ear." But the business called for its own special knack. In the *History of the Press-yard* the Hangman is represented, after the suppression of the 1715 Rising, as cheerfully expectant, "provided the king does not unseasonably spoil my market by reprieves and pardons." He will receive ample douceurs "for civility-money in placing their halters' knot right under their left ear, and separating their quarters with all imaginable decency." Ketch's fancy hovered between a noble and a

highwayman. My Lord was never stingy with tips; 'twere unseasonable and quite against the traditions of his order. And the foppery of the other made him a bird worth plucking. I do not pretend to give a complete catalogue of these rascals, yet two others I must mention: John Price (1718) was arrested for murder as he was escorting, it is said, a felon to Tyburn. It was a brutal business, and he richly deserved the halter. He got it too! John Dennis led the attack on Newgate in the Lord George Gordon No-Popery Riots (*temp.* 1780, but of course you remember your *Barnaby Rudge*). He was like to have swung himself, but was continued in his old occupation on condition of stringing up his fellow-rioters. Of old time the Hangman was (we are assured) sworn on the Book to dispatch every criminal without favour to father or relative or friend; and he was then dismissed with this formula:—"Get thee hence, wretch." I have noted the unwillingness to admit him into Newgate—his wages were paid over the gate—and the sorry condition of his equipage. This last

gave a grotesque touch to his progress, readily seized on by the jeering mob, which had ever a curse or a missile for the scowling wretch.

In the centuries of its horrible virility, the Tree at Tyburn slew its tens of thousands. A record of famous cases would fill volumes. I can but note a very few. The earliest recorded, though they cannot have been the first, were those of Judge Tressilian and Nicholas Brembre, in February 1388. Their offence was high treason, which meant in that primitive time little more than a political difference with the authorities. This Brembre had been four times Mayor of London. He proposed some startling innovations in the city, one being to change its name to New Troy (Geoffrey of Monmouth perchance had turned his head). Here ended Perkin Warbeck, that "little cockatrice of a king" on whom Bacon lavishes such wealth of vituperative rhetoric, after abusing Henry VII.'s generosity more than once. The savagery of Henry VIII. kept the executioner busy, and he of Tyburn had his full

share. On May 4, 1535, in open defiance to every past tradition, the King caused hang and quarter Haughton, the last prior of the Charterhouse, in his sacerdotal robes, without any previous ceremony of degradation, after which "his arm was hung as a bloody sign over the archway of the Charterhouse." In 1581, under Elizabeth, Campion and Harte continued the long line of catholic martyrs. Campion had been so cruelly racked that he could not hold up his hand to plead without assistance, yet he maintained his courage through the raw December morning whereon he suffered. At Tyburn they vexed him with long discussions; but at last, while he was yet praying for Elizabeth, the cart drove away. Many of his disciples stood round. They fought for relics which the authorities were determined they should not have, so that a young man having dipped his handkerchief in the blood was forthwith arrested. In the confusion some one cut off a finger and conveyed it away. Some one else offered twenty pounds for a finger-joint, but the hangman dared

not let it go. The fevered imagination of Campion's adorers saw wondrous signs. Some pause in the flow of the Thames was noted on that day, and was ascribed thereto. The river

Awhile astonished stood
To count the drops of Campion's sacred blood.

Campion himself had long a presentiment of his fate, which, considering the desperate nature of his mission, was not wonderful; and when occasion took him past the Triple Tree he was moved to uncover his head. Southwell, the "sweet singer" of the Catholic reaction, told the end of his friend in a little work printed at Douay, but in English, and of course for English circulation; and in 1595 Southwell followed his brother priest. His followers noted that, when his heart was torn out, "it leaped from the dissector's hand and, by its thrilling, seemed to repel the flames." A strange legend—not quite baseless, Mr. Gardner thinks—shows the effect of such scenes on the Catholic mind. Henrietta Maria, Charles I.'s queen, walked

barefoot to Tyburn, as to a shrine, at dead of night, and did penance under the gallows for the sins of her adopted country. A felon of a very different order was Mrs. Turner, who suffered (November 14, 1615) for complicity in Sir Thomas Overbury's murder. She had invented yellow starch, and my Lord Coke with a fine sense of the picturesque ordained her to hang "in her yellow Tinny Ruff and Cuff." She dressed the part gallantly; "her face was highly rouged, and she wore a cobweb lawn ruff, yellow starched." The Hangman had also yellow bands and cuffs, he tied her hands with a black silk ribbon herself had provided, as well as a black veil for her face. Being turned off, she seemed to die quietly. But yellow starch went hopelessly out of fashion!

After the Restoration, the bodies of Cromwell, Ireton, and Bradshaw were dug up at Westminster, removed at night to the Red Lion Inn, Holborn, drawn next morning (January 30, 1661), the anniversary of Charles's death, to Tyburn, and there hanged in their shrouds on the three wooden posts

of the gallows. At nightfall they were taken down and beheaded; the bodies being there buried, whilst the heads adorned Westminster Hall. Noll had his picturesque historians before Carlyle. A wild tale arose that his original funeral at the Abbey had been but a mock ceremonial; for his body, according to his own instructions, had been secretly removed to Naseby, and buried at nightfall on the scene of that victory. Even if we disregard this legend, the subsequent adventures of Cromwell's head have been a matter of as much concern to antiquaries as ever the Royal Martyr's was to Mr. Dick.

Time would fail to narrate the picturesque and even jovial exits of those "curled darlings" of the *Tyburn Calendar* or *Malefactors' Bloody Register* (or any other form of the *Newgate Chronicle*), those idols of the popular imagination, the Caroline and Georgian highwaymen. Swift pictures the very ideal in *Clever Tom Clinch*, who—

. . . while the rabble was bawling,
Rode stately through Holborn to die in his calling;

He stopped at the George for a bottle of sack,
And promised to pay for it—when he came back.
His waistcoat and stockings and breeches were white,
His cap had a new cherry-ribbon to tie't;
And the maids to the doors and the balconies ran,
And cried "Lack-a-day! he's a proper young man!"

But how to summarise the infinite variety of detail? To tell how, when Claude Duval swung (January 21, 1670) Ladies of Quality looked on in tears and masks; how he lay in more than royal state in Tangier Tavern, St. Giles's; and how they carved on his stone "in the centre aisle of Covent Garden Church," the pattern of a highwayman's epitaph:

Here lies Du Vall: reader, if male thou art,
Look to thy purse; if female, to thy heart.

How the mob bolted with Jack Sheppard's body (November 16, 1724) to save the "bonny corp" from the surgeon's knife! How Jonathan Wild, "the Great" (May 24, 1725), during the finishing touches picked the Ordinary's pocket of his corkscrew, and was turned off with it still in his hand (thus Fielding: Purney was the ordinary.

His account is quite different), to the unspeakable delight of that enormous body of spectators, to which Sheppard's two hundred thousand onlookers were (Defoe assures us) no more to be compared than is a regiment to an army. How Sixteen-string Jack (November 30, 1774), his "bright pea-green coat" and "immense nosegay" were almost *too* magnificent even for so noble an occasion. Alas! not ours to dwell on such details; let the brave rogues go!

I cull one instance from the peerage. Earl Ferrers suffered at Tyburn (May 5, 1760) for the death of Johnson, his land steward. He dressed in his wedding clothes, "a suit of white and silver": "as good an occasion," he observed, "for putting them on, as that for which they were first made" (his treatment of his wife had indirectly brought about the murder). Every consideration was paid to my Lord's feelings: "A landau with six horses" was *his* Tyburn cart, and a silk rope *his* "anodyne necklace"; and yet things did not go smoothly. The mob was so enormous that the journey took three

hours. It was far worse than hanging, he protested to the sheriffs. His very handsome tip of five guineas was handed by mistake to the Hangman's man, and an unseemly altercation ensued. My Lord toed the line with anxious care. "Am I right?" were his last words. The accurate fall of the drop must have satisfied him that he was.

I must not neglect the clergy. Here the leading case is obviously that of Dr. Dodd, hanged for forgery (June 27, 1777). The strange ups and down of his life ("he descended so low as to become the editor of a newspaper") are not for this page. The maudlin piety of his last days is no pleasant spectacle. Dr. Newton, Bishop of Bristol, thought him deserving of pity "because hanged for the least crime he had committed." Dr. Samuel Johnson did all he could to save him; also wrote his address to the judge (sentence had been respited) in reply to the usual question, as well as the sermon he delivered in Newgate Chapel three weeks before the end. The King sternly refused a reprieve. No doubt he was right. The very manner

of the deed seems to argue not a first, only a first discovered, offence. His doggerel *Thoughts in Prison* is his chief literary crime. He went in a coach. His "considerable time in praying," and "several showers of rain," rendered the mob somewhat impatient. He was assisted by two clergymen. One was very much affected; "the other, I suppose, was the Ordinary, as he was perfectly indifferent and unfeeling in everything he said and did." Villette was then Ordinary. He wrote an account (after the most approved pattern) of Dodd's unhappy end. The pair had spent much time together in Newgate, and one hopes the report of Villette's behaviour is mistaken or inaccurate, though it is that of an eye-witness, a correspondent of George Selwyn himself an enthusiastic amateur of executions, who, when he had a tooth drawn, let fall his handkerchief *à la Tyburn*, as a signal for the operation. James Boswell had a like craze. He went in a mourning coach with the Rev. James Hackman when that divine was hanged (April 19, 1779) for the murder of

Miss Reay. When Hackman let fall the handkerchief for signal it fell *outside* the cart, and Ketch with an eye to small perquisites jumped down to secure it *before* he whipped up the horse. These are all names more or less known. There are hundreds of curious incidents connected with obscure deaths. Here are a few samples:—In 1598 “some mad knaves took tobacco all the way as they went to be hanged at Tyburn.” In 1677, a woman and “a little dog ten inches high” were hanged side by side as accomplices—“a hideous prospect,” comments our chronicler. In 1684 Francis Kirk, having murdered his wife, must end at Tyburn. Shortly before he had seen a fellow hanged there for making away with *his* spouse; and this, he confessed, had inspired him!

One John Austin had the distinction of being the last person executed at Tyburn (November 7, 1783). Reformers had long denounced the procession as a public scandal. The sheriffs had some doubts as to their powers; but the judges, being consulted,

assured them they could end it an they would. A month after (December 9, 1783) the gallows was at work in front of Newgate, and Old London lost its most exciting spectacle. Dr. Johnson frankly regretted the change:—"Executions are intended to draw spectators, if they do not draw spectators they lose their reason. The old method was more satisfactory to all parties. The public was gratified by a procession, the criminal was supported by it. Why is all this to be swept away?" In truth, the change of scene was an illogical compromise: the picturesque effect was gone—save for an occasional touch, as after Holling's execution, when the dead hand was thrust into a woman's bosom, to remove a mark or wen—the disorderly mob remained, nay, was a greater scandal at the centre than in the suburbs. Dickens is but one of many writers who knowing their London well described the unedifying walk and talk of the crowd before Newgate; and in 1868 private was substituted for public execution throughout the land. I do not criticise any

system: I do but point out that of the two sets of opposing forces noted as working on the criminal's mind, the latter, in a private execution, is entirely suppressed.

Tyburn and its memories, its criminals, its Hangmen, its Ordinaries, filled a great space in popular imagination, and have frequent mention in our great writers. Shakespeare himself has "The shape of Love's Tyburn"; and Dryden's "Like thief and parson in a Tyburn cart" is a stock quotation. But I cannot string a chaplet of these pearls. Yet two phrases I must explain. A felon who "prayed his clergy" was during some centuries branded on the crown of his thumb with the letter T, ere he was released, to prevent a second use of the plea. This was called, in popular slang, the Tyburn T. Ben Jonson was so branded (October, 1598) for killing Gabriel Spencer, the actor, in a duel. Again a statute of 1698 (10 Will. III. c. 12), provided for those who prosecuted a felon to conviction a certificate freeing them from certain parochial duties. This was known as a "Tyburn ticket." It had a certain money

value, because if unused it could be assigned once. The privilege was abolished in 1827 (7 and 8 Geo. IV. c. 27), but it was allowed as late as 1856 to a certain Mr. Pratt, of Bond Street, who by showing his ticket (which must have been thirty years old) escaped service on an Old Bailey jury.

Pillory and Cart's=Tail

Hood and Lamb on the Pillory—Its Various Shapes—Butcher and Baker—Brawler and Scold—Fraudulent Attorneys—End of the Pillory and of Public Whipping—Literary Martyrs—De Foe—Prynne, Bastwick, and Burton—Case of Titus Oates—The Tale of a Cart—Some Lesser Sufferers.

HOOD has comically told of his pretended experiences in the Pillory :—"It is a sort of Egg-Premiership: a place above your fellows, but a place which you have on trial. You are not without the established political vice, for you are not exempt from turning,"—with more punning cogitations of a like nature. Of rarer humour is Charles Lamb's *Reflections in the Pillory*, with its invocation to them that once stood therein :—"Shades of Bastwick and of Prynne hover over thee—Defoe is there, and more greatly daring Shebbeare—from their (little more elevated) stations they look down with recognitions. Ketch,

turn me!" A century or so earlier these ingenious wits had possibly stood therein—in fact and not in fancy. It was a way our old-time rulers had of rewarding ingenious wits. And not wits alone: since for many centuries it was in daily use throughout the length and breadth of Merrie England.

Our treatment of crime is the exact opposite of our forefathers'. Our criminal toils, is flogged, is hanged in private; the old idea was to make punishment as public as possible, for so penalty and effect (it was thought) were heightened and increased. The Pillory was the completest expression of this idea. A man was exposed for sixty minutes in the market-place at the busiest hour of the day, and the public itself was summoned to approve of and aid the punishment. The thing was known in old Saxon days. In the laws of Withred it is called *healsfang*. The mediæval Latin name for it was *collistrigium*. Both terms = a "catch for the neck." Its form varied. The simplest was a wooden frame or screen, with three holes in it, elevated some feet above the ground. The culprit stood

behind upon a platform, his head and hands caught in and stuck through the aforesaid holes. This was much like the stocks, save that there the patient sat instead of stood and had his feet enclosed instead of his head and hands. In popular phrase this was "to peep through the nut-crackers." Again, the structure swung on a pivot; so that the inmate might face the compass points in turn. Sometimes, though this was rather a foreign fashion, it was so commodious that it would take a nosegay of twelve; at the same time that it went revolving and revolving—a very far from merry-go-round! Now (as at Dublin) it was the kernel of a large and imposing structure of stone. Now (as at Coleshill, in Warwickshire) it stood a deft arrangements of uprights, boards, and holes, and did triple duty—as stocks, as whipping-post, as Pillory. Now, yet again (as at Marlborough, in Wiltshire), the frame turned on a swivel at the will of the patient, whose deft twistings in dodging missiles hugely delighted the grinning mob. With pen and pencil Mr. Llewellyn Jewitt and other anti-

quarians have preserved for our delectation yet other forms.

The Pillory was first used for dishonest bakers, brewers, corn-sellers, and the like. Then, its offices were extended to divers kinds of misdemeanants. Later, it was the lot of your scurrile pamphleteer, your libeller, and your publisher of unlicensed volumes. The victim was not always pelted ; for feeling might run high against the Government ; and when he was acclaimed his shame became his glory. So the thing served as a weather-glass of popular opinion.

I turn to some historic instances. Under Henry III., by the Assize of Bread and Ale, it was decreed that knavish bakers, brewers, and butchers be “set on the pyllory.” It was also provided that “The pyllory shal be of a metely strengthe, so that they that be fautye may be thereon without any jeopardye of their lyvys.” (The platform must not seldom have broken down, leaving the “worm of the hour” suspended by the neck—that had been securely fastened—in peril of strangulation · in a case of this sort, under

Elizabeth, he sued the town, and recovered damages.) The articles of usage for the City of London, published under Edward I., set forth some evil humours of the time. Rustical simplicity fell, then as now, an easy prey to urban cunning. What rascals these mediæval cits were, to be sure ! Thus, your corn dealer would take in grain from harmless necessary bumpkins, to whom he would give an earnest, telling them to come to his house for payment. Here he met them with a long face:—his wife had gone out with the key of the cash-box ; would his country friends call again ? And when they do, he is “not in.” (Ah ! That “call again” and that “not in !” Were they stale so many centuries ago ?) If the rogue were discovered, he impudently denied his debt :—he had never seen the gentlemen before ; or, raising some dispute about the price, he told him to take back his goods—when the corn was found too wet for removal. “By these means the poor men lose half their pay in expenses before they are settled with ;” and the wrong-doer is to be amerced

heavily. Being unable to pay, "then he shall be put on the Pillory, and remain there an hour in the day at least; a Serjeant of the City standing by the side of the Pillory with good hue-and-cry as to the reason why he is punished." The wicked butcher suffered after the same fashion; while the baker, who put off bad bread, was drawn—for the first offence upon a hurdle from the Guildhall to his own house, by "the great streets that are most dirty, with the faulty loaf hanging about his neck," a spectacle to gods and a cockshy for men. For the second offence he processioned as before; and, to boot, he must stand in the Pillory for an hour. Offending for the third time, he was judged incorrigible: his oven was dismantled, and he might bake within the city bounds no more. Sure, the ancient London loaf, be it *manchet*, or *chete*, or mere *mystelon*, must ever have been of good quality? When, indeed, did the falling off begin? Was it when the city fathers unwisely took to regulating men's morals? In the seventh of Richard II. this punishment was ordained for

the man of evil life :—" Let his head and beard be shaved except a fringe on the head two inches in breadth, and let him be taken to the Pillory, with minstrels, and set thereon for a certain time, at the discretion of the Mayor and Aldermen." As for the erring sister, she was taken from the prison into Aldgate with a hood of ray and a white wand in her hand. From Aldgate minstrels played her to the Thew (a species of Pillory for women). Thence, her offence being proclaimed, she was led "through Chepe and Newgate to Cokkes Lane, there to take up her abode." Again, the brawler or the scold must hold a distaff with tow in hand—and so on ; for your old-time law-giver lusted after variation.

Once the Pillory was an indispensable ornament of the market-place. Nay, were it not kept fit for use, the very right to hold a market might be lost. As an emblem of power, it was claimed by the great lords : often, indeed, it went with the lordship of the manor. Thus at Beverley, in the twenty-first of Edward I., John, Archbishop

of York, claims the right of Pillory with the right of gallows and gibbet; and with the right of Pillory the right of tumbrell, which was the dung-cart wherein minor malefactors were shamefully trundled through the town. Legislative ingenuity was ever striving to devise fresh marks of ignominy. Stow relates that, in the seventh of Edward IV., certain common jurors must (for their partial conduct) ride in paper mitres from Newgate to the Pillory in Cornhill, and there do penance for their fault. Again, in the first of Henry VIII. (1509), Smith and Simpson, ringleaders of false inquests, rode the City (also in paper mitres) with their faces to the horse's tail; and they were set on the Pillory in Cornhill; and they were brought again to Newgate, where they died from very shame. The like fate, it seems, befell a much later offender, one James Morris, who was pilloried (April 2, 1803) for fraud in the market place at Lancaster. Next morning he was found dead in his bed, and the coroner's jury brought it in as "visitation of God." Oftentimes the sufferer came less mysteriously to

his end. The mobility was, in effect, invited, as it were, to italicise his sentence in terms of anything you please, from rotten eggs to brickbats. Not seldom it did so to the sternest purpose. On June 22, 1732, contemporary prints report:—"Last night the corpse of John Walker, who was killed in the Pillory on Tuesday last, was buried at St. Andrew's, Holborn;" and among the casualties of the December of that same year, the case of another poor wretch is dismissed with "murder'd in the pillory." In 1756 Egon and two others were pilloried for procuring the commission of a robbery, in order to get a reward for its detection. Egon was stoned to death. On one or two occasions—notably when Elizabeth Collier was pilloried by order of Jeffreys in 1680—the authorities were ordered to see that the peace was kept and that the culprit suffered the exposure alone.

A long list might be given of misdemeanours punished by the Pillory:—as, practising the art magick; cutting a purse; placing a piece of iron in a loaf of bread; selling bad oats, stinking eels, strawberry pottles half

full of fern ; vending ale by measures not sealed and thickening the bottom of such measures with pewter. As (also) lies, defamations, and libels of all sorts. If the lie were notorious, or were told of the mayor or any other dignitary, the liar was pilloried with a whetstone round his neck : whence it came that a whetstone was the popular reward for audacious mendacity, and "lying for the whetstone" was a current phrase.

Late Tudor and Stuart times edged and weighted the punishment of the Pillory. It might be preceded by a flogging at the Cart's-tail. Stripped to the waist, the culprit, man or woman, was tied to the hinder end (our fathers used a shorter phrase) of a cart, and was thus lashed through the streets. (This vulgarly was called, "Shoving the tumbler," or "Crying carrots and turnips.") Or, as Butler's couplet reminds us, the patient's ears were nailed to the wood :—

Each window like a Pillory appears,
With heads thrust through, nail'd by the ears.

Or his ears were cropped, and not seldom his

nose was slit likewise. In 1570, Timothy Penredd was pilloried in Chepe on two successive market-days for counterfeiting the seal of the Queen's Bench. Each time an ear was nailed; and this poor member he must free "by his own proper motion." If the wrench were too great for human fortitude, the thoughtful authorities lent some aid. In one case (1552) the culprit would not "rent his eare"; so that in the long run "one of the bedles slitted yt upwards with a penknife to loose it." Indeed, the law had a strong grudge against the ears of malefactors. The fourteenth of Elizabeth, cap. 5, ordered that vagrants be grievously whipped and burned through the gristle of the right ear, unless some credible person took them to service (if they relapsed they were hanged). The punishments of the time show a curious alternation between Pillory and Cart. Thus, whilst keepers of immoral houses were carted about the town to the music of ringing basins, in the eleventh of James I., William Barnwell, "gentleman" (an inaccurate description had vitiated the indictment), and his wife

Thomasina, criminals of the same class, were whipped at the Cart's-tail from the prison to their house, and back again. Thus, too, were handled those who lived by cards and dice; but, for witchcraft, Dorothy Magicke was set four times a year upon the Pillory, and must thereon make public confession. This man capers dolefully at the Cart's-tail for stealing lead; that must take his turn in the Pillory for snatching three-pence worth of hairs from a mare's tail. Later, it was thought excellent for fraudulent attorneys. In November 1786 one "Mr. A—" (the name is thus disguised), a legal gentleman, was brought from Newgate in a hackney cab and pilloried for an hour hard by the gate of Westminster Hall. What he did, and how he fared, we are not told; so it may be that his hap was even as Thomas Scott's, pilloried for a false accusation in January 1804. Scott was pelted with rotten eggs, filth, and dirt of the street. Also, the neighbouring ragamuffins had thoughtfully collected good store of dead cats and rats "in the vicinity of the metropolis" that morning.

Was it so very edifying after all? Opinions began to differ. Yet Lord Thurlow solemnly cracked it up "as a restraint against licentiousness provided by the wisdom of our ancestors"; and in 1814 Lord Ellenborough ordered Lord Cochrane to be pilloried for conspiring to spread false news. The justice of this last abominable sentence was questioned. Sir Francis Burdett, Cochrane's fellow-member for Middlesex, vowed that he would stand with him on the day of punishment; but the Government did not venture to carry out the sentence. Two years later, in 1816, the punishment of Pillory was restricted to persons guilty of perjury; and in 1837, by the 1 Vict. cap. 23, it was abolished altogether. The last person who suffered it is said to have been Peter James Bossy, pilloried in front of the Old Bailey, June 24, 1830. The public whipping of women went in 1817; the private followed in 1820 by 1 Geo. IV. cap. 57. The whipping of men for a common law misdemeanour has never been formally abolished; but the punishment is now inflicted only

under the Garrotters Act (1863) for robbery with violence; which, of course, has nothing to do with existing statutory provisions for the flogging of juvenile male offenders. I should add that in America Pillory and Whipping-Post were "an unconscionable time a-dying"; lingered especially in the State of Delaware; and that their restoration has been urged.

The Finger Pillory deserves a word. It was fixed up inside churches (that of Ashby-de-la-Zouch, for instance) and halls. Boys who misbehaved during service, and offenders at festive times against the mock reign of the lord of misrule, alike expiated their offences therein.

I note some remarkable cases. First, and most important, is the group of literary martyrs. The Stuart Government could not crush the press; but author, printer, and publisher all worked in peril of the Pillory. The author of *Robinson Crusoe* was, perhaps, its most famous inmate.

Earless on high stood unabash'd De Foe,
And Tutchin flagrant from the scourge below,

sings Pope in the *Dunciad* with reckless inaccuracy. In 1703, De Foe, for his *Shortest Way with the Dissenters*, was condemned to stand thrice in the Pillory before the Royal Exchange, near the Conduit in Cheapside, and at Temple Bar. The mob, he tell us, treated him very well, and cheered long and loud when he was taken out of what he calls a "Hieraglyphick state machine; Contrived to punish fancy in" (*Hymn to the Pillory*). He comforts himself by reflecting that the learned Selden narrowly escaped it, and turns the whole thing to ridicule; but then mutilation was no port of the sentence. Pope's reference to John Tutchin is still wider of the mark. Tutchin, having narrowly escaped death for his share in Monmouth's rebellion, was sentenced by Jeffreys, on his famous Western Circuit (1685), to seven years' imprisonment, during which he must, once a year, be whipped through every market-town in Dorsetshire. The very clerk of the court was moved to protest that this meant a whipping once a fortnight; but the sentence remained. Out of bravado, or in desperation,

the prisoner petitioned the King to be hanged instead of whipped; but, in the result, he was neither whipped nor hanged. He fell ill of the small-pox; passion cooled; and, intelligently bribing, he escaped, to visit Jeffreys in the Tower. Apparently he went to gloat, but remained to accept the ruined Chancellor's explanation, that he had only obeyed instructions. "So after he had treated Mr. *Tutchin* with a glass of wine, Mr. *Tutchin* went away."

Another of Pope's examples is "old Prynne," cropped (in 1632) in the Pillory for his *Histrionic*, or Players' Scourge, which was held to reflect on Charles I.'s Queen. Again he stood there in 1637, when the executioner cruelly mangled the ancient stumps. A quite incorrigible person was this same William Prynne, described by Marchmont Needham as "one of the greatest paper worms that ever crept about a library." He wrote some forty works remarkable for virulence even in that age of bitter polemics. He strenuously supported the Restoration, and the new Government was at its wit's end

what to do with him till Charles himself solved the difficulty with happy humour. "Let him amuse himself with writing against the Catholics and poring over the records in the Tower," said the king; and silenced him with the Keepership of the Records and £500 a year. Prynne's second appearance was for a bitter attack on Laud; and he had as fellow-sufferers John Bastwick, who had written a sort of mock *Litanie*, and Henry Burton. Bastwick was "very merrie." His wife "got on a stool and kissed him;" and, "his ears being cut off, she called for them, put them in a clean handkerchief, and carried them away with her." There was a great crowd, which "cried and howled terribly, especially when Burton was cropped." Being angered by the jeers and execrations of the mob, the executioner did his work very brutally. Pope's Billingsgate is classic, but it remains Billingsgate. The Pillory shows often in his verse. Edmund Curl was a pet aversion of his, and for publishing the *Memoirs of Ker of Kersland* Curl suffered the punishment at Charing Cross on Feb. 23,

1728. Pope hints (*Dunciad*, II. 3 and 4) that he was badly handled by the mob. In truth he came off very well, owing, it seems, to an explanatory circular he got distributed among the spectators.

As time wore on the punishment reverted to its earlier and milder form. Thus, in 1630, Dr. Leighton, for his *Zion's Plea against Prelacy*, was pilloried, branded, cropped, and whipped; but the authors of the eighteenth century were punished by exposure alone, and were often solaced by popular sympathy. In 1765 Williams, the bookseller, stood in the Pillory for re-publishing *The North Briton*: he held a sprig of laurel in his hand, and a large collection was made for him then and there. In derision of authority the mob displayed (*inter alia*) the famous Bootjack — the popular reference to Lord Bute, the late Prime Minister. Still more farcical was the exposure (1759) of Dr. Shebbeare for publishing political libels. He was attended on the platform by a servant in livery holding an umbrella over his head, and his neck and

arms were not confined. The court thought the under-sheriff of Middlesex something more than remiss: wherefore he was fined and imprisoned, it being judicially decided that the culprit must stand not merely *on* but *in* the Pillory. In this connexion I will only further mention the case of Eton the publisher, "a very old man," who in 1812 was pilloried for printing Paine's *Age of Reason*. Here, again, the crowd, by the respect it heaped upon the prisoner, altogether eliminated the sting from the punishment. The minor scribe of to-day is supposed to court an action, nay, a criminal prosecution, as a stimulus to circulation; a former age saw in the Pillory the best possible advertisement for the Grub Street hack. In Foote's *Patron*, Puff, the publisher, urges Dactyl to produce a satire; and, when the proposed risk is hinted at, retorts: "Why, I would not give twopence for an author who was afraid of his ears. . . . Why, zooks, sir! I never got salt for my porridge till I mounted at the Royal Exchange, that was the making of me. . . . The true Castalian

stream is a shower of eggs and a Pillory the poet's Parnassus."

Among cases other than literary, a notable one is that of Titus Oates (1685), who, being convicted of perjury, was sentenced to stand in the Pillory and be whipped at the Cart's-tail. The lashing was so cruelly done that you feel some pity even for that arch rascal. The curious computed that he received 2256 strokes with a whip of six thongs—13,536 strokes in all. Yet the wretch lived to enjoy a pension after the Revolution! There was another remarkable instance that same year. Thomas Dangerfield, convicted of libelling the King when Duke of York, was sentenced to a fine, to the Pillory, and to be whipped from Aldgate to Newgate, and from Newgate to Tyburn. The dreadful work was over, and he was returning prisonwards in a coach, when there steps forward Robert Francis, a barrister of Gray's Inn, with the cruel jibe, "How now, friend? Have you had your heat this morning?" Dangerfield turned on him with bitter curses ("Son of a wh——" is the elegant sample preserved by

the records). Francis, much enraged, thrust at the aching, smarting, bleeding wretch with a small cane, and by mischance put out an eye, so that in two hours Dangerfield was dead ; and no great while thereafter he himself was tried, condemned, and hanged. According to the testimony of the Rev. Mr. Samuel Smith, Ordinary at Newgate, he made a very edifying end.

Quite interesting is the case of Japhet Crook, *alias* Sir Peter Stringer, whose unhappy memory is preserved in some of Pope's most biting lines. In 1731, poor Japhet stood in the Pillory at Charing Cross for forging a deed ; when the hangman, dressed like a butcher, " with a knife like a gardener's pruning knife cut off his ears, and with a pair of scissors slit both his nostrils." The wretch endured all this with great patience ; but at the searing " the pain was so great that he got up from his chair." No wonder ! Two years after Eleanor Beare, keeper of "The White Horse," Nuns Green, Derby, was pilloried (August 1732) after just escaping the gallows for murder. She

mounted the platform "with an easy air"; thus exasperating a mob already ill-disposed, which bombarded her with apples, eggs, turnips, and so forth; so that "the stagnate kennels were robbed of their contents, and became the cleanest part of the street." Managing to escape, she dashed off, "a moving heap of filth," but was presently seized and lugged back; and at the end of the hour she was carried to prison, "an object which none cared to touch." A week after she was again forced to take her stand. The officer noted that her head was wondrous swelled, and he presently stripped it of "ten or twelve coverings," whereof one was a pewter plate. Her aspect was most forlorn, but the crowd, no whit moved, pelted its hardest, and she was borne away more dead than alive. Yet she too not only lived, but "recovered her health, her spirits, and her beauty." Two lighter instances, and I have done. In the early stages of Monmouth's rebellion, an astrologer, consulting the stars, saw that the duke would be presently King of England. After Sedgemoor he was cast into

Dorchester Gaol for this unlucky prediction. Again falling to his observations, he clearly read "that he would be whipped at the Cart's ——"; and this time the planets spoke true. In 1783, the poet Cowper reports one humorous case from his own experience. At Olney a man was publicly whipped for theft; he whealed with every stroke; but that was only because the beadle drew the scourge against a piece of red ochre hidden in his hand. Noting the fraud, the parish constable laid his cane smartly about the shoulders of the all too-lenient official, whereat a country wench, in high dudgeon, set to pomelling the constable. And of the three the thief alone escaped punishment.

State Trials for Witchcraft

Early Laws against Witchcraft—The Essex Witches—The Devon Witches—The Bury St. Edmunds Case—Bewitched Children—The Scepticism of Serjeant Keeling—Evidence of Sir Thomas Browne—The Judge's Charge—The End of it All—The Trial of Richard Hathaway—The Comic Side of Superstition—A Rogue's Punishment—A Word in Conclusion.

I PROPOSE to examine the Witchcraft cases in Howell's twenty-one bulky volumes of State Trials. The general subject, even in England, is too vast for detailed treatment here ; also it is choked with all manner of absurdities. In a trial some of these are pared away : you know what the people saw, or believed they saw, and you have the declarations of the witches themselves. Only five cases, all between 1616 (13 Jac. I.) and 1702 (1 Anne) are reported. The selection is capricious, for some famous prosecutions

as that of the Lancashire witches are omitted, but it is fairly representative.

In the early times Witchcraft and sorcery were left to the Church. In 1541, 33 Hen. VIII. c. 8, made both felony without "benefit of clergy;" and by the 1 Jac. I. c. 12, all persons invoking any evil spirit, or taking up dead bodies from their graves to be used in any Witchcraft, sorcery, charm, or enchantment, or killing or otherwise hurting any person by such infernal arts, shall be guilty of felony without "benefit of clergy," and suffer death. King James's views on Witchcraft and his skill (whereon he greatly plumed himself) as witch-finder are famed. Royal influence went hand-in-hand with popular superstition. In less than a century and a half, legislative if not vulgar ideas were altered, and in 1736, by 9 Geo. II. c. 5, the laws against Witchcraft were swept away, though charlatans professing the occult sciences were still punished as cheats.

I pass as of little interest Howell's first case, that of Mary Smith, in 1616. More worthy of note are the proceedings against

the Essex witches, some twenty in number, condemned at the Chelmsford Sessions on July 29, 1645, before the Earl of Warwick and other Justices. One noted witch was Elizabeth Clarke to whom the devil had appeared "in the shape of a proper gentleman with a laced band, having the whole proportion of a man." She had certain imps, whom she called Jamara ("a white dogge with red spots"), Vinegar Tom, Hoult, and Sack and Sugar. So far the information of Matthew Hopkins, of Manningtree, gent., who further said that the same evening whereon the accused confessed those marvels to him, "he espied a white thing about the bignesse of a kitlyn," which bit a piece out of his greyhound, and in his own yard that very night "he espied a black thing proportioned like a cat, only it was thrice as big, sitting on a strawberry-bed, and fixing the eyes on this informant."

John Sterne, gent., had equal wonders of imps the size of small dogs, and how Sack and Sugar were like to do him hurt. 'Twere well, said the malevolent Elizabeth, "that

this informant were so quick, otherwise the said imps had soone skipped upon his face, and perchance had got into his throate, and then there would have been a feast of toades in this informant's belly." The witch Clarke ascribed her undoing to Anne Weste, widow, here usually called Old Beldam Weste, who, coming upon her as she was picking up a few sticks, and seeming to pity her for "her lameness (having but one leg) and her poverty," promised to send her a little kitten to assist her. Sure enough, a few nights after two imps appeared, who vowed to "help her to an husband who should maintain her ever after." A country justice's notions of evidence are not supposed to be exact even to-day; what they were then let the information of Robert Tayler, also of Manningtree, show. It seems Clarke had accused one Elizabeth Gooding as a confederate. Gooding was refused credit at Tayler's for half a pound of cheese, whereupon "she went away muttering and mumbling to herself, and within a few hours came again with money and bought a pound

of cheese of this informant." That very night Tayler's horse fell grievously ill and four farriers were gravelled to tell what ailed it, but this portentous fact was noted: "the belly of the said horse would rumble and make a noyse as a foule chimney set on fire." In four days it was dead. Tayler had also heard that certain confessed witches had "impeached the said Elizabeth Gooding for killing of this said horse," moreover Elizabeth kept company with notorious witches — after which scepticism was scarce permissible. Rebecca Weste, a prisoner awaiting trial in Colchester, confessed how at a witches' meeting the devil appeared to her in the shape of a dog and kissed her. In less than six months he came again and promised to marry her. "Shee said he kissed her, but was as cold as clay, and married her that night in this manner: he tooke her by the hand and led her about the chamber and promised to be a loving husband to death, and to avenge her of her enemies."

One Rawbood had taken a house over

the head of Margaret Moon, another of the accused, with highly unpleasant consequences. Thus, Mrs. Rawbood, though a "very tydy and cleanly woman, sitting upon a block, after dinner with another neighbour, a little before it was time to go to church upon an Easter Day, the said Rawbood's wife was on a sudden so filled with lice that they might have been swept off her clothes with a stick; and this informant saith he did see them, and that they were long and lean, and not like other lice." More gruesome were the confessions of Rebecca Jones, of Osyth. One fine day some twenty-five years past she, a servant lass at Much-Clacton, was summoned by a knock at the door, where she saw "a very handsome young man, as shee then thought, but now shee thinks it was the devil." Politely inquiring how she did, he desired to see her left wrist, which being shown him, he pulled out a pin "from this examinant's owne sleeve, and pricked her wrist twice, and there came out a drop of bloud, which he took off with the top of his finger, and so departed"—leaving poor

Rebecca's heart all in a flutter. About four months afterwards as she was going to market to sell butter, a "man met with her, being in a ragged state, and having such great eyes that this examinant was very much afraid of him." He presented her with three things like to "moules," which she afterwards used to destroy her neighbours' cattle, and now and again her neighbours themselves. In evidence against other suspects there was mention of a familiar called Elimanzer, who was fed with milk pottage, and of imps called Wynowe, Jeso, Panu, with many other remarkable particulars.

The foregoing was collected before trial as information upon oath; but this testimony of Sir Thomas Bowes, knight, was given from the bench during the trial of Anne Weste, whom it concerned. He reported that an honest man of Manningtree passing Anne Weste's door at the very witching hour of night, in bright moonlight saw four things like black rabbits emerge. He caught one of them, and beat the head of it against his stick, "intending to beat

out the braines of it," failing in which benevolent design, he next tried to tear off its head, "and as he wrung and stretched the neck of it, it came out between his hands like a lock of wooll;" then he went to a spring to drown it, but at every step he fell down, yet he managed to creep to the water, under which he held the thing "a good space." Thinking it was drowned he let go, whereupon "it sprang out of the water into the aire, and so vanished away." There was but one end possible for people who froze the rustic soul with such pranks. Each and all were soon dangling from the gallows.

The case of the Devon witches tried at Exeter in August 1682 is much like the Essex business. The informations are stuffed with grotesque horrors, yet it is hard to believe that the accused—three poor women from Bideford, two of them widows—had been convicted but for their own confessions, which are full of copious and minute details of their dealings with Satan. Going to their death, they were worried by Mr. H——, a nonconformist preacher and (as is evident)

a very pestilent fellow. "Did you pass through the keyhole of the door, or was the door open?" was one query. The witch asserted that like other people she entered by the door, though "the devil did lead me upstairs." Mr. H—— went on, "How do you know it was the devil?" "I knew it by his eyes," she returned. Again, "Did you never ride over an arm of the sea on a cow?"—an exploit which the poor woman sturdily disclaimed. Mr. H——, a little dissatisfied, one fancies, prayed at them a while, after which two of the women were turned off the ladder. Mr. Sheriff tried his hand at the survivor: he was curious as to the shape or colour of the devil, and was answered that he appeared "in black like a bullock." He again pressed her as to whether she went in "through the keyhole or the door," but she alleged the more commonplace and (for a witch) unorthodox mode of entry, "and so was executed."

Between these two cases one occurred wherein the best legal intellect of the day was engaged—and with no better result. In

March 1665, Rose Cullender and Amy Duny, widows, were indicted at the Assizes at Bury St. Edmunds for bewitching certain people. Sir Matthew Hale, Lord Chief Baron of the Exchequer, presided. "Still his name is of account." To an earlier time he seemed a judge "whom for his integrity, learning, and law, hardly any age, either before or since, could parallel." William Durant, an infant, was one victim; his mother had promised Amy Duny a penny to watch him, but she was strictly charged not to give him suck. To what end? queried the court reflecting on Amy's age. The mother replied: firstly, Amy had the reputation of a witch, and secondly, it was a custom of old women thus to please the child, "and it did please the child, but it sucked nothing but wind, which did the child hurt." The two women had a quarrel on the subject: Amy was enraged, and departed after some dark sayings, and the boy forthwith fell into "strange fits of swoounding." Dr. Jacob, of Yarmouth, an eminent witch-doctor, advised "to hang up the child's blanket in the chimney-corner all

day, and at night when she put the child to bed to put it into the said blanket, and if she found anything in it she should not be afraid, but throw it into the fire." The blanket was duly hung up, and taken down, when a great toad fell out, which being thrown into the fire made (not unnaturally) "a great and horrible noise;" followed a crack and a flash, and—exit the toad! The court with solemn foolishness inquired if the substance of the toad was not seen to consume? and was stoutly answered "No." Next day Amy was discovered sitting alone in her house in her smock without any fire. She was in "a most lamentable condition," having her face all scorched with fire. This deponent had no doubt as to the witch's guilt, "for that the said Amy hath been long reputed to be a witch and a person of very evil behaviour, whose kindred and relations have been many of them accused for witchcraft, and some of them have been condemned."

Elizabeth Pacy was another bewitched child. By direction of the judge, Amy

Duny was made to touch her, whereupon the child clawed the Old Beldam till the blood came—a portentous fact, for everybody knew that the bewitched would naturally scratch the tormentor's face and thus obtain relief. The father of the child, Samuel Pacy (whose soberness and moderation are specially commended by the reporter), now told how Amy Duny thrice came to buy herrings, and, being as often refused, “went away grumbling, but what she said was not perfectly understood.” Immediately his child Deborah fell sick, whereupon Amy was set in the stocks. Here she confessed that, when any of her offspring were so afflicted, “she had been fain to open her child's mouth with a tap to give it vitals,” which simple device the sapient Pacy practised upon his brats with some effect, but still continuing ill they vomited “crooked pins and one time a twopenny nail with a very broad head, which pins, amounting to forty or more, together with the twopenny nail, were produced in court,” so what room was there for doubt? The children, continually accusing Amy Duny and Rose Cullender

as cause of their sickness, were packed off by their distracted father to his sister at Yarmouth, who now took up the wondrous tale. When the younger child was taking the air out of doors, "presently a little thing like a bee flew upon her face, and would have gone into her mouth." She rushed indoors, and incontinent vomited up a twopenny nail with a broad head, whose presence she accounted for thus: "the bee brought this nail and forced it into her month"; from all which the guilt of the witches was ever more evident.

Even that age had its sceptics. Some people in court, chief among them Mr. Serjeant Keeling, whose position and learning made it impossible to disregard their opinion, "seemed much unsatisfied." The learned serjeant pointed out that even if the children were bewitched, there was no real evidence to connect the prisoners with the fact. Then Dr. Browne, of Norwich, "a person of great knowledge" (no other, alas! than the Sir Thomas Browne of the *Religio Medici*), made a very learned if confusing dissertation on Witchcraft in general, with some curious

details as to a late "great discovery of witches" in Denmark; which no whit advanced the matter. Then there was another experiment. Amy Duny was brought to one of the children whose eyes were blinded. The child was presently touched by another person, "which produced the same effect as the touch of the witch did in the court." The sceptical Keeling and his set now roundly declared the whole business a sham, which "put the court and all persons into a stand. But at length Mr. Pacy did declare that possibly the maid might be deceived by a suspicion that the witch touched her when she did not." This was the very point the sceptics were making, and was anything but an argument in reply, though it seems to have been accepted as such. And how to suppose, it was urged, that innocent children would tell such terrible lies? It was the golden age of the rod; never was there fitter occasion for its use. Once fancies a few strokes had produced remarkable confessions from the innocents! However, the court went on hearing evidence. The judge

summed up with much seeming impartiality, much wooden wisdom, and the usual judicial platitudes, all which after more than two centuries you read with considerable irritation. The jury upon half an hour's deliberation returned a verdict of guilty. Next morning the children were brought to the judge, "and Mr. Pacy did affirm that within less than half an hour after the witches were convicted they were all of them restored." After this, what place was left for doubt? "In conclusion the judge and all the court were fully satisfied with the verdict, and thereupon gave judgment against the witches that they should be hanged." Three days afterwards the poor unfortunates went to their death. "They were much urged to confess, but would not."

Finally, you have this much less tragic business. In the first year of Queen Anne's reign (1702), Richard Hathaway was tried at the Surrey Assizes before Lord Chief Justice Holt for falsely accusing Sarah Morduck of bewitching him. The offence being a misdemeanour, the prisoner had

counsel, an advantage not then fully given to those charged with felony. The trial reads like one in our own day. The case for the Crown had been carefully put together. Possibly the authorities were striking at accusations of and prosecutions for Witchcraft. Sarah Morduck had been tried and acquitted at Guildford Assizes for bewitching Hathaway, whereupon this prosecution had been ordered. Dr. Martin, parish minister in Southwark, an able and enlightened divine, had saved Sarah from the mob, and so was led on to probe the matter. He found Hathaway apparently blind and dumb, but giving his assent by a sign to the suggestion that he should scratch Morduck, and so (according to the superstition already noted) obtain relief. Dr. Martin brought Sarah and a woman of the same height called Johnson to the room where the impostor lay, seemingly, at death's door. Morduck announced her willingness to be scratched, and then Johnson's hand was put into his. Hathaway was suspicious, and felt the arm very carefully, whereat the

parson "spoke to him somewhat eagerly : If you will not scratch I will begone." Whereupon he clawed so lustily that Johnson near fainted. She was forthwith hustled out of the room and Morduck pushed forward ; but the rogue, fearing a trap, lay quiet till Dr. Martin encouraged him by simulated admiration. Then he opened wide his eyes, "caught hold of the apron of Sarah Morduck, and looked her in the face," thus implying that his supposed scratching of her had restored his eyesight. Being informed of his blunder he "seemed much cast down," but his native impudence soon asserting itself, he gave himself out for worse than ever, whilst Sarah Morduck, anxious to be clear at any cost, declared that not she but Johnson was the witch. The popular voice roundly abused Dr. Martin for a stubborn sceptic. Charges of bribery against him, as well as against the judge and jury who had acquitted Morduck, were freely bandied about. Dr. Martin had got Bateman a friend of his to see Hathaway, one of whose symptoms was the vomiting of pins. His evidence

was that the rogue scattered the pins about the room by sleight of hand ; Bateman had taken several parcels of them, almost by force, out of his pocket. Kensy, a surgeon, further told how Hathaway, being committed to his care, at first would neither eat nor drink. Kensy being afraid that he would starve himself to death sooner than have his cheat discovered, arranged a pretended quarrel with his maid Baker, who supplied the patient with food as if against his orders. Indeed, she plied him so well with meat and drink that, so she told the court, "he was very merry and danced about, and took the tongs and played upon them, but after that he was mightily sick and vomited sadly"—but there were no pins and needles ! She further told how four gentlemen, privily stored away in the buttery and coal-hole, witnessed Hathaway's gastronomic feats. Serjeant Jenner for the defence called several witnesses, who testified to the prisoner's abstinence from food for quite miraculous periods. The force of this evidence was much shaken by the pertinent

cross-examination of the judge, who asked the jury in his summing up, "Whether you have any evidence to induce you to believe it to be in the power of all the witches in the world, or all the Devils in Hell, to fast beyond the usual time that nature will allow : they cannot invert the order of nature." The jury, "without going from the bar, brought him in Guilty." He was sentenced to a fine, a sound flogging, the pillory, and imprisonment with hard labour. The last conviction for Witchcraft in England was that of Jane Wenham, at Hertford, in 1712. She was respited by the judge and afterwards pardoned. The case is not here reported.

These trials throw a curious light on the ideas of the time ; unfortunately they exhibit human nature in some of its worst aspects. The victims were women, old, poor, helpless, and the persecution to which they were subjected was due partly to superstition, partly to that delight in cruelty so strong in the natural man. The "confessions" of the accused are easily accounted for. The popular

beliefs so impressed their imaginations that they believed in their own malevolent power, also the terror they inspired lacked not charm, it procured them consideration, some money, even some protection. Not seldom their "confessions" were merely terrified assents to statements made about them by witch-finders, clergymen, and justices. And the judges? Sometimes, alas! they callously administered a law in which they had no belief. Is there not still something inexplicable? Well, such things as mesmerism, thought-reading, and so forth exhibit remarkable phenomena. A former age ascribed all to Satan: we believe them natural though we cannot as yet solve all their riddles. I must add that the ancient popular horror of witches is partly explained by the hideous and grotesque details given at the trials, but those obscenities I dare not reproduce.

A Pair of Parricides

The State Trials—The Dry Bones of Romance—Pictures of the Past—Their Value for the Present—The Case of Philip Standsfield—The Place of the Tragedy—The Night of the Murder—The Scene in Morham Kirk—The Trial—"The Bluidy Advocate—Mackenzie"—The Fate of Standsfield—The Case of Mary Blandy, Spinster—The Villain of the Piece—The Maid's Gossip—Death of Mr. Blandy—The "Angel" Inn at Henley-on-Thames—The Defence—Miss Blandy's Exit.

THERE is a new series of *State Trials* continuing the old, and edited with a skill and completeness altogether lacking in its predecessor; yet its formal correctness gives an impression of dulness. You think with regret of Howell's thirty-three huge volumes, that vast magazine of curiosities and horrors, of all that is best and worst in English history. How exciting life was long ago, to be sure, and how persistently it grows duller! What a price we pay for the smug comfort

of our time ! People shuddered of yore ; did they yawn quite so often ? Howell and the folk he edits knew how to tell a story. Judges, too, were not wont to exclude interesting detail for that it wasn't evidence, and the compilers did not end with a man's condemnation. They had too keen a sense of what was relished of the general : the last confession and dying speech, the exit on the scaffold or from the cart, are told with infinite gusto. What a terrible test earth's great unfortunates underwent ! Sir Thomas More's delicate fencing with his judges, the exquisite courtesy wherewith he bade them farewell, make but half the record ; you must hear the strange gaiety which flashed in the condemned cell and by the block ere you learn the man's true nature. And to know Raleigh you must see him at Winchester under the brutal insults of Coke ; "Thou art a monster, thou hast an English face but a Spanish heart ;" again, "I thou thee, thou traitor !" and at Palace Yard, Westminster, on that dreary October morning urging the sheriff to hurry, since he would not be thought fear-

shaken when it was but the-ague; for these are all-important episodes in the life of that richly dressed, stately, and gallant figure your fancy is wont to picture in his Elizabethan warship sweeping the Spanish Main. Time would fail to tell of Strafford and Charles and Laud and a hundred others, for the collection begins with Thomas à Becket in 1163 and comes down to Thistlewood in 1820. Once familiar with those close packed, badly printed pages, you find therein a deeper, a more subtle charm than cunningest romance can furnish forth. The account of Mary Stuart's ending has a finer hold than Froude's magnificent and highly decorated picture-Study at first hand "Bloody Jeffreys," his slogging of Titus Oates, with that unabashed rascal's replies during his trial for perjury; or again, my Lord's brilliant though brutal cross-examination of Dunn in the "Lady" Alice Lisle case, during the famous or infamous Western Circuit, and you will find Macaulay's wealth of vituperative rhetoric, in comparison, tiresome and pointless verbiage. Also you will prefer to construct your own

Braxfield from trials like those of Thomas Muir in 1793, and of Alexander Scott and Maurice Margarot in 1794, rather than accept the counterfeit presentment which Stevenson's master-hand has limned in *Weir of Hermiston*.

But the interests are varied. How full of grotesque and curious horrors are the prosecutions for witchcraft! There is that one, for instance, in March 1665 at Bury St. Edmunds before Sir Matthew Hale, with stories of bewitched children, and plague-stricken women, and satanic necromancy. Again, there is the diverting exposure of Richard Hathaway in 1702, and how the rogue pretended to vomit pins and abstain from meat or drink for quite miraculous periods. But most of those things I deal with elsewhere in this volume. The trials of obscurer criminals have their own charm. Where else do you find such Dutch pictures of long-vanished interiors or exteriors? You touch the *vie intime* of a past age; you see how kitchen and hall lived and talked; what master and man, mistress and maid

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thought and felt; how they were dressed, what they ate, of what they gossiped. Again, how oft your page recalls the strange, mad, picturesque ways of old English law! *Benefit of clergy* meets you at every turn, the *Peine Fort et Dure* is explained with horrible minuteness, the lore of *Ship Money* as well as of *Impressment of Seamen* is all there. Also is an occasional touch of farce. But what phase of man's life goes unrecorded in those musty old tomes?

Howell's collection only comes down to 1820. Reform has since then purged our law, and the whole set is packed off to the Lumber Room. In a year's current reports you may find the volumes quoted once or twice, but that is "but a bravery," as Lord Bacon would say, for their law is "a creed outworn." Yet the human interest of a story remains, however antiquated the setting, incapable of hurt from Act of Parliament. So, partly for themselves, partly as samples of the bulk, I here present in altered form two of these tragedies, a Pair of Parricides: one Scots of

the seventeenth, the other English of the eighteenth century.

The first is the case of Philip Standsfield, tried at Edinburgh, in 1688, for the murder of his father, Sir James Standsfield, of New Mills, in East Lothian. To-day New Mills is called Amisfield; it lies on the south bank of the Tyne, a mile east of Haddington. There is a fine mansion-house about a century old in the midst of a well wooded park, and all round are the superbly tilled Lothian fields, as *dulcia arva* as ever the Mantuan sang. Amisfield got its present name thus: Colonel Charteris, infamed (in the phrase of Arbuthnot's famous epitaph) for the "undeviating pravity of his manners" (hence lashed by Pope in many a stinging line), purchased it early in the last century and re-named it from the seat of his family in Nithsdale. Through him it passed by descent to the house of Wemyss, still its owners. Amongst its trees and its waters the place lies away from the beaten track and is now as charmingly peaceful a spot as you shall anywhere discover. Name gone and

aspect changed, local tradition has but a vague memory of the two-centuries-old tragedy whereof it was the centre.

Sir James Standsfield, an Englishman by birth, had married a Scots lady and spent most of his life in Scotland. After the Restoration he had established a successful cloth factory at the place called New Mills, and there lived, a prosperous gentleman. But he had much domestic trouble chiefly from the conduct of his eldest son Philip, who, though well brought up, led a wild life. Whilst "this profligate youth" (so Wodrow, who tells the story, dubs him) was a student at the University of St. Andrews, curiosity or mischief led him to attend a conventicle where godly Mr. John Welch was holding forth. Using a chance loaf as a missile, he smote the astonished divine, who, failing to discover the culprit, was moved to prophecy. "There would be," he thundered, "more present at the death of him who did it, than were hearing him that day; and the multitude was not small." Graver matters than this freak stained the lad's later career. Serving

abroad in the Scots regiment, he had been condemned to death at Treves, but had escaped by flight. Certain notorious villainies had also made him familiar with the interior of the Marshalsea and the prisons of Brussels, Antwerp, and Orleans. Sir James at last was moved to disinherit him in favour of his second son John. Partly cause and partly effect of this, Philip was given to cursing his father in most extravagant terms (of itself a capital offence according to old Scots law); he affirmed his parent "girmed upon him like a sheep's head in a tongs;" on several occasions he had even attempted that parent's life: all which is set forth at great length in the "ditty" or indictment upon which he was tried. No doubt Sir James went in considerable fear of his unnatural son. A certain Mr. Roderick Mackenzie, advocate, testifies that eight days before the end he met the old gentleman in the Parliament Close, Edinburgh, whereupon "the defunct invited him to take his morning draught." As they partook Sir James bemoaned his domestic troubles. "Yes," said Mackenzie,

but why had he disherished his son?" And the defunct answered: "Ye do not know my son, for he is the greatest debauch in the earth. And that which troubles me most is that he twice attempted my own person."

Upon the last Saturday of November 1687, the elder Standsfield travelled from Edinburgh to New Mills in company with Mr. John Bell, minister of the Gospel, who was to officiate the next day in Morham Church (Morham is a secluded parish on the lower slope of the Lammermoors, some three miles south-west of New Mills; the church plays an important part in what follows). Arrived at New Mills the pair supped together, thereafter the host accompanied his guest to his chamber, where he sat talking "pertinently and to good purpose" till about ten o'clock. Left alone, our divine gat him to bed, but had scarce fallen asleep when he awoke in terror, for a terrible cry rang through the silence of the winter night. A confused murmur of voices and a noise of folk moving about succeeded.

Mr. Bell incontinently set all down to "evil wicked spirits," so having seen to the bolts of his chamber door, and having fortified his timid soul with prayers, he huddled in bed again; but the voices and noises continuing outside the house he crept to the window, where peering out he perceived nought in the darkness. The noises died away across the garden towards the river, and Bell lay quaking till the morning. An hour after day Philip came to his chamber to ask if his father had been there, for he had been seeking him upon the banks of the water. "Why on the banks of that water?" queried Bell in natural amazement. Without answer Philip hurriedly left the room. Later that same Sunday morning a certain John Topping coming from Monkrig to New Mills, along the bank of the Tyne, saw a man's body floating on the water. Philip, drawn to the spot by some terrible fascination, was looking on (you picture his face). "Whose body was it?" asked the horror-struck Topping, but Philip replied not. Well *he* knew it was his father's corpse.

It was noted that, though a hard frosty morning, the bank was "all beaten to mash with feet and the ground very open and mellow." The dead man being presently dragged forth and carried home was refused entry by Philip into the house so late his own, "for he had not died like a man but like a beast,"—the suggestion being that his father had drowned himself,—and so the poor remains must rest in the woollen mill, and then in a cellar "where there was very little light." The gossips retailed unseemly fragments of scandal, as "within an hour after his father's body was brought from the water, he got the buckles from his father's shoes and put them in his;" and again, there is note of a hideous and sordid quarrel between Lady Standsfield and Janet Johnstoun, "who was his own concubine," so the prosecution averred, "about some remains of the Holland of the woonding-sheet," with some incriminating words of Philip that accompanied.

I now take up the story as given by Umphrey Spurway, described as an Englishman and clothier at New Mills. His

suspicious caused him to write to Edinburgh that the Lord Advocate might be warned. Philip lost no time in trying to prevent an inquiry. At three or four of the clock on Monday morning Spurway, coming out of his house, saw "great lights at Sir James' Gate;" grouped round were men and horses. He was told they were taking away the body to be buried at Morham, whereat honest Umphrey, much disturbed at this suspicious haste, sighed for the "crowner's quest law" of his fatherland. But on the next Tuesday night after he had gone to bed a party of five men, two of them surgeons, came post haste to his house from Edinburgh, and showing him an order "from my Lord Advocat for the taking up again the body of Sir James Standsfield," bid him rise and come. Philip also must go with the party to Morham. Here the grave was opened, the body taken out and carried into the church, where the surgeons made their examination, which clearly pointed to death by strangulation not by drowning (possibly it struck Spurway as an odd use

for a church; it had not seemed so to a presbyterian Scot of the period). The dead being re-dressed in his grave clothes must now be set back in his coffin. A terrible thing happened. According to Scots custom the nearest relative must lift the body, and so Philip took the head, when lo! the corpse gushed forth blood on his hands! He dropped the head—the “considerable noise” it made in falling is noted by one of the surgeons—frantically essayed to wipe off the blood on his clothes, and with frenzied cries of “Lord have mercy upon me, Lord have mercy upon us!” fell half swooning across a seat. Strong cordials were administered, and in time he regained his sullen composure.

A strange scene to ponder over, but how terrible to witness! Think of it! The lonely church on the Lammermoors, the dead vast and middle of the dreary night (November 30, 1687), the murdered man, and the Parricide's confession (it is so set forth in the “ditty”) wrung from him (as all believed) by the direct interposition of

Providence. What fiction ever equalled this gruesome horror? Even his mother, who had sided with him against the father, scarce professed to believe his innocence. "What if they should put her bairn in prison?" she wailed. "Her bairn" was soon hard and fast in the gloomy old Tolbooth of Edinburgh, to which, as the *Heart of Midlothian*, Scott's novel was in future days to give a world-wide fame.

The trial came on February 6 ensuing. In Scotland there is no inquest or public magisterial examination to discount the interest of the story, and the crowd that listened in the Parliament House to the evidence already detailed had their bellyful of surprises and horrors. The Crown had still in reserve this testimony, sensational and deadly. The prosecution proposed to call James Thomson, a boy of thirteen, and Anna Mark, a girl of ten. Their tender years were objected. My Lords, declining to receive them as witnesses, oddly enough consented at the request of the jury to take their declaration. The boy told how Philip

came to his father's house on the night of the murder. The lad was hurried off to bed, but listened whilst the panel, Janet Johnstoun, already mentioned, and his father and mother softly whispered together for a long time, until Philip's rage got the better of his discretion, and he loudly cursed his father and threatened his life. Next Philip and Janet left the house, and in the dead of night his father and mother followed. After two hours they crept back again; and the boy, supposed to be sleeping, heard them whisper to each other the story of the murder, how Philip guarded the chamber door "with a drawn sword and a bendit pistol," how it was strange a man should die so soon, how they carried the body to the water and threw it in, and how his mother ever since was afraid to stay alone in the house after nightfall. The evidence of Anna Mark was as to certain criminating words used by her mother Janet Johnstoun.

Up to this time the panel had been defended by four eminent advocates mercifully

appointed thereto by the Privy Council; there had been the usual Allegations, Replies, and Duplies, with frequent citations from Mattheus, Carpzovius, Muscard, and the other fossils, as to the matters contained in the "ditty" (indictment), and they had strenuously fought for him till now, but after the statement of the children they retired. Then Sir George Mackenzie rose to reply for the Crown. Famous in his own day, his name is not yet forgotten. He was "the bluidy advocate Mackenzie" of Covenanting legend and tradition, one of the figures in Wandering Willie's tale in *Redgauntlet* ("who for his worldly wit and wisdom had been to the rest as a god"). He had been Lord Advocate already, and was presently to be Lord Advocate again. Nominally but second counsel he seems to have conducted the whole prosecution. He had a strong case, and he made the most of it. Passionate invective and prejudicial matter were mixed with legal argument. Cultured politician and jurist as he was, he dwelt with terrible emphasis on the scene in Morham kirk.

“God Almighty Himself was pleased to bear a share in the testimonies which we produce.” Nor was the children’s testimony forgotten. “I need not fortifie so pregnant a probation.” No! yet he omitted not to protest for “an Assize of Error against the inquest in the case they should assoilzie the pannal” —a plain intimation to jury that if they found Philip Standsfield “not guilty” they were liable to be prosecuted for an unjust verdict. But how to doubt after such evidence? The jury straightway declared the panel guilty, and my lords pronounced a sentence of picturesque barbarity. Standsfield was to be hanged at the Mercat Cross of Edinburgh, his tongue cut out and burned upon the scaffold, his right hand fixed above the east port of Haddington, and his dead body hung in chains upon the Gallow Lee betwixt Leith and Edinburgh, his name disgraced for ever, and all his property forfeited to the Crown. According to the old Scots custom the sentence was given “by the mouth of John Leslie, dempster of court”—an office held along with that of

hangman. "Which is pronounced for doom" was the formula wherewith he concluded.

On February 15 Standsfield though led to the scaffold was reprieved for eight days "at the priest's desire, who had been tampering to turn Papist" (one remembers these were the last days of James II., or as they called him in Scotland, James VII.'s reign). Nothing came of the delay, and when finally brought out on the 24th "he called for Presbyterian ministers." Through some slipping of the rope, the execution was bungled; finally the hangman strangled his patient. The "near resemblance of his father's death" is noted by an eye-witness. "Yet Edmund was beloved." Leave was asked to bury the remains. One fancies this was on the part of Lady Standsfield, regarding whose complicity and doting fondness, strange stories were current. The prayer was refused, but the body was found lying in a ditch a few days after, and again the gossips (with a truly impious desire to "force the hand" of Providence) saw a likeness to the father's end. Once

more the body was taken down and presently vanished.

Lord Fountainhall, a contemporary of Standsfield, and Sir Walter Scott, both Scots lawyers of high official position, thought the evidence of Standsfield's guilt not altogether conclusive, and believed something might be urged for the alternative theory of suicide. Whilst venturing to differ, I note the opinion of such eminent authorities with all respect.

Standsfield maintained his innocence to the last. Three servants of his father's—two men and a woman—were seized and tortured with the thumbikins. They confessed nothing. Now, torture was frequently used in old Scots criminal procedure, but if you did not confess you were almost held to have proved your innocence.

I cannot discover the after fate of these servants, and probably they were banished—a favourite method with the Scots authorities for getting rid of objectionable characters whose guilt was not sufficiently proved.

The second case, not so romantic albeit a love-story is woven through its tangled threads, is that of Mary Blandy, spinster, tried at Oxford in 1752, before two of the Barons of the Exchequer, for the murder of her father, Francis Blandy, attorney, and town clerk of Henley-on-Thames. Prosecuting counsel described her as "genteel, agreeable, sprightly, sensible." She was an only child. Her sire being well off she seemed an eligible match, and yet wooers tarried. Some years before the murder, the villain of the piece, William Henry Cranstoun, a younger son of the Scots Lord Cranstoun and an officer recruiting at Henley for the army, comes on the scene. Contemporary gossip paints him the blackest colour. "His shape no ways genteel, his legs clumsy, he has nothing in the least elegant in his manner." He was remarkable for his dulness; he was dissipated and poverty-stricken. More fatal than all he had a wife and child in Scotland, though he brazenly declared the marriage invalid spite the judgment of the Scots courts in its favour. Our respectable attorney,

upon discovering these facts, gave the Captain, as he was called, the cold shoulder. The prospect of a match with a Lord's son was too much for Miss Blandy, now over thirty, and she was ready to believe any ridiculous yarn he spun about his northern entanglements. Fired by an exaggerated idea of old Blandy's riches, he planned his death, and found in the daughter an agent and, as the prosecution averred, an accomplice.

The way was prepared by a cunning use of popular superstitions. Mysterious sounds of music were heard about ; at least Cranstoun said so ; indeed, it was afterwards alleged he "hired a band to play under the windows." If any one asked "What then?" he whispered "that a wise woman, one Mrs. Morgan, in Scotland," had assured him that such was a sign of death to the head of the house within twelve months. The Captain further alleged that he held the gift of second sight and had seen the worthy attorney's ghost ; all which, being carefully reported to the servants by Miss Blandy raised a pleasing horror in the kitchen. Cranstoun, from

necessity or prudence, left Henley before the diabolical work began in earnest, but he supplied Mary with arsenic in powder, which she administered to her father for many months. The doses were so immoderate that the unfortunate man's teeth dropped whole from their sockets, whereat the undutiful daughter "damn'd him for a toothless old rogue and wished him to hell." Cranstoun, under the guise of a present of Scotch pebbles, sent her some more arsenic, nominally to rub them with. In the accompanying letter, July 18, 1751, he glowingly touched on the beauties of Scotland as an inducement to her, it was supposed, to make haste. Rather zealous than discreet, she near poisoned Anne Emmett, the charwoman, by misadventure, but brought her round again with great quantities of sack whey and thin mutton broth, sovereign remedies against arsenic.

Her father gradually became desperately ill. Susannah Gunnell, maidservant perceiving a white powder at the bottom of a dish she was cleaning had it preserved. It proved to be arsenic, and was produced at

the trial. Susannah actually told Mr. Blandy he was being poisoned ; but he only remarked, "Poor lovesick girl ! what will not a woman do for the man she loves ?" Both master and maid fixed the chief, perhaps the whole, guilt on Cranstoun, the father confining himself to dropping some strong hints to his daughter, which made her throw Cranstoun's letters and the remainder of the poison on the fire, wherefrom the drug was in secret rescued and preserved by the servants.

Mr. Blandy was now hopelessly ill, and though experienced doctors were at length called in, he expired on Wednesday, August 14, 1751. The sordid tragedy gets its most pathetic and highest touch from the attempts made by the dying man to shield his daughter and to hinder her from incriminating admissions which under excitement and (one hopes) remorse she began to make. And in his last hours he spoke to her words of pardon and solace. That night and again on Thursday morning the daughter made some distracted efforts to escape. "I ran

out of the house and over the bridge, and had nothing on but a half-sack and petticoat without a hoop — my petticoats hanging about me.” But now all Henley was crowded round the dwelling to watch the development of events. The mob pressed after the distracted girl, who took refuge at the sign of the Angel, a small inn just across the bridge. “They were going to open her father,” she said, and “she could not bear the house.” She was taken home and presently committed to Oxford Gaol to await her trial. Here she was visited by the high sheriff, who “told me by order of the higher powers he must put an iron on me. I submitted as I always do to the higher powers” (she had little choice). Spite her terrible position and these indignities she behaved with calmness and courage.

The trial, which lasted twelve hours, took place on February 29, 1752, in the Divinity School of the University. The prisoner was “sedate and composed without levity or dejection.” Accused of felony, she had properly counsel only for points of law, but at her request they were allowed to

examine and cross-examine the witnesses. Herself spoke a defence possibly prepared by her advisers, for though the style be artless, the reasoning is exceeding ingenious. She admitted she was passionate and thus accounted for some hasty expressions; the malevolence of servants had exaggerated these. Betty Binfield, one of the maids, was credibly reported to have said of her, "she should be glad to see the black bitch go up the ladder to be hanged." But the powder? Impossible to deny she had administered that. "I gave it to procure his love." Cranstoun, she affirmed, had sent it from Scotland, assuring her that it would so work, and Scotland, one notes, seemed to everybody "the shores of old romance," the home of magic incantations and mysterious charms. It was powerfully objected that Francis Blandy had never failed in love to his daughter, but she replied that the drug was given to reconcile her father to Cranstoun. She granted he meant to kill the old man in hopes to get his money, and she was the agent, but (she asserted) the innocent agent,

of his wicked purpose. This theory though the best available was beset with difficulties. She had made many incriminating statements, there was the long time over which the doses had been spread, there was her knowledge of its effects on Anne Emmett the charwoman, there was the destruction of Cranstoun's letters, the production of which would have conclusively shown the exact measure in which guilty knowledge was shared. Finally, there was the attempt to destroy the powder. Bathurst, leading counsel for the Crown, delivered two highly rhetorical speeches, "drawing floods of tears from the most learned audience that perhaps ever attended an English Provincial Tribunal." The jury after some five minutes' consultation in the box returned a verdict of "guilty," which the prisoner received with perfect composure. All she asked was a little time "till I can settle my affairs and make my peace with God," and this was readily granted. She was left in prison five weeks.

The case continued to excite enormous

interest, increased by an account which she issued from prison of her father's death and her relations with Cranstoun. She was constant in her professions of innocence, "nor did anything during the whole course of her confinement so extremely shock her as the charge of infidelity which some uncharitable persons a little before her death brought against her." Some were convinced and denied her guilt, "as if," said Horace Walpole, "a woman who would not stick at parricide would scruple a lie." Others said she had hopes of pardon "from the Honour she had formerly had of dancing for several nights with the late P——e of W——s, and being personally known to the most sweet-tempered P——ess in the world." The press swarmed with pamphlets. The Cranstoun correspondence, alleged not destroyed, was published — a very palpable Grub Street forgery! and a tragedy, *The Fair Parricide*, dismal in every sense, was inflicted on the world. The last scene of all was on April 6, 1752. "Miss Blandy suffered in a black bombazine short sack and petticoat, with a

clean white handkerchief drawn over her face. Her hands were tied together with a strong black riband, and her feet at her own request almost touched the ground" ("Gentlemen, don't hang me high for the sake of decency," an illustration of British prudery which has escaped the notice of French critics). She mounted the ladder with some hesitation. "I am afraid I shall fall." For the last time she declared her innocence, and soon all was over. "The number of people attending her execution was computed at about 5000, many of whom, and particularly several gentlemen of the university, were observed to shed tears" (tender-hearted "gentlemen of the university"!)" "In about half an hour the body was cut down and carried through the crowd upon the shoulders of a man with her legs exposed very indecently." Late the same night she was laid beside her father and mother in Henley Church.

Cranstoun fled from justice and was outlawed. In December that same year he died in Flanders.

Some Disused Roads to Matrimony

Marriage according to the Canon Law—The English Law — Peculiars — The Fleet Chapel — Marriage Houses—"The Bishop of Hell"—Ludgate Hill in the Olden Time—Marriages Wholesale—The Parsons of the Fleet—Lord Hardwicke's Marriage Act —The Fleet Registers—Keith's Chapel in May Fair —The Savoy Chapel—The Scots Marriage Law—The Strange Case of Joseph Atkinson—Gretna Green in Romance and Reality—The Priests—Their Clients—A Pair of Lord High Chancellors—Lord Brougham's Marriage Act—The Decay of the Picturesque.

"THE fear of the Lord is the beginning of wisdom. The marrying in the Fleet is the beginning of eternal woe." So scribbled (1736) Walter Wyatt, a Fleet Parson, in one of his note-books. He and his likes are long vanished, and his successor the blacksmith priest (in truth he was neither one nor other) of Gretna is also gone ; yet their

story is no less entertaining than instructive, and here I set it forth.

Some prefatory matter is necessary for the right understanding of what follows. Marriage, whatever else it may or may not be, is a contract of two consenting minds; but at an early age the church put forth the doctrine that it was likewise a sacrament which could be administered by the contracting parties to each other. Pope Innocent III., in 1215, first ordained—so some authorities say—that marriages must be celebrated in church; but it was not yet decreed that other and simpler methods were without effect. According to the canon law, “espousals” were of two kinds: *sponsalia per verba de præsenti*—which was an agreement to marry forthwith; and *sponsalia per verba de futuro*—which was a contract to wed at a future time. Consummation gave number two the effect of number one, and civilly that effect was the same as of duly celebrated nuptials; inasmuch as the church, while urging the religious ceremony upon the faithful as the sole proper method, ad-

mitted the validity of the others—*quod non fieri debet id factum valeat* (so the maxim ran). The common law adopting this, held that (1) marriage might be celebrated with the full rites of the church; or (2) that the parties might take each other for man and wife; or (3), which obviously followed, that a priest might perform the ceremony outside the church, or without the full ceremonial—with maimed rites, so to speak. Whatever penalties were incurred by following other than the first way the marriage itself held good.

I must here note that in 1844, in the case of *The Queen against Millis*, the House of Lords *seemed* to decide that there could not have been a valid marriage in England, even before Lord Hardwicke's Act, which in 1753 completely changed the law, in the absence of an ordained ecclesiastic. The arguments and the judgment fill the half of one of Clark and Finnelly's bulky volumes, and never was matter more thoroughly threshed, and winnowed, and garnered. The House was equally divided; and the opinion of the

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Irish Court of Queen's Bench, which maintained the necessity of the priest's presence, was affirmed. The real explanation, I think, is that, though the old canon law and the old common law were as I have stated, yet English folk had got so much into the habit of calling in the Parson that his presence came to be regarded as essential. The parties, even when they disobeyed the church by leaving undone much they were ordered to do, would still have "something religious" about the ceremony. In 1563 the Council of Trent declared such marriages invalid as were not duly celebrated in church; but Elizabeth's reign was already five years gone, both England and Scotland had broken decisively with the old faith, and the Council's decrees had no force here.

In England both church and state kept tinkering the Marriage Laws. In 1603 the Convocation for the Province of Canterbury declared that no minister shall solemnise matrimony without banns or licence upon pain of suspension for three years. Also, all marriages were to be in the parish church

between eight and twelve in the forenoon. Nothing so far affected the validity of the business; and "clandestine marriages," as they were called, became frequent. In 1695, an Act of William III. fined the Parson who assisted at such couplings one hundred pounds for the first offence, and for the second suspended him for three years. This enactment was followed almost immediately by another, which mulcted the clergyman who celebrated or permitted any such marriage in his church as well as the bridegroom and the clerk. The main object of this legislation was to prevent the loss of duties payable upon regularly performed marriages; but it strengthened ecclesiastical discipline.

Thus your correct wedding, then as now, had its tedious preliminaries; but the fashion of the time imposed some other burdens. There was inordinate feasting with music and gifts and altogether much expense and delay. Poor folk could ill afford the business; now and again the rich desired a private ceremony; here and there young people sighed for a runaway match. Also, outside

this trim and commonplace century the nation's life had not that smoothness which seems to us such a matter of course. Passion was stronger and worse disciplined; law, though harsh, was slow and uncertain. How tempting, then, the inducement to needy persons to marry cheaply and without ceremony! Now, London had a number of places of worship called *Peculiars*, which, as royal chapels, possessions of the Lord Mayor and alderman, or what not, claimed, rightly or wrongly, exemption from the visitation of the ordinary. These were just the places for irregular or clandestine marriages. *Peculiars* or not, as many as ninety chapels favoured such affairs. Chief among them were the Savoy, the Minories, Mayfair Chapel, and (above all) the Fleet, which—from a very early date to half a century ago—was a famous prison especially for debtors, standing on what is now the east side of Farringdon Street. It had a chapel where marriages were properly solemnised by 1613, and (it may be) earlier; but the records are somewhat scanty. Now, a number of dissolute

Parsons were "fleeted" (as the old phrase ran) for one cause or another, and some might live outside the walls but within the *rules or liberties of the Fleet*, as the ground about the prison was called. These obtained the use of the chapel, where, for a reasonable consideration, they were willing to couple any brace forthwith. What terror had the law for them? Men already in hold for debt laughed at a fine, and suspension was a process slow and like to be ineffectual at the last. The church feebly tried to exercise discipline. On June 4, 1702, the Bishop of London held a visitation *in carcere vulgo vocat' ye Fleet in civitate London*. He found one Jeronimus Alley coupling clients at a great rate. 'Twas hinted that Jeronimus was not a Parson at all, and proof of his ordination was demanded; "but Mr. Alley soon afterwards fled from *ye said prison* and never exhibited his orders." Another record says that he obtained "some other preferment" (probably he was playing the like game elsewhere).

The legislature, in despair, as it might

seem, now struck at more responsible heads. In 1712 a statute (10 Ann. c. 19) imposed the penalty of a hundred pounds on keepers of gaols permitting marriage without banns or licence within their walls. This closed the Fleet Chapel to such nuptials, but private houses did just as well. Broken-down Parsons, bond or free, were soon plentiful as blackberries; and taverns stood at every corner; so at the "Two Fighting Men and Walnut Tree," at "The Green Canister," at "The Bull and Garter," at "The Noah's Ark," at "The Horseshoe and Magpie," at "Jack's Last Shift," at "The Shepherd and Goat," at "The Leg" (to name no more), a room was fitted up in a sort of caricature of a chapel; and here during the ceremony a clock with doubly brazen hands stood ever at one of the canonical hours though without it might be midnight or three in the morning. A Parson, hired at twenty shillings a week, "hit or miss," as 'twas curiously put, attended. The business was mostly done on Sundays, Thursdays, and Fridays; but ready, ay ready, was the word. The

landlord or a servingman played clerk, and what more was wanted?

There were many orders of Fleet Parsons, some not parsons at all. At the top of the tree was the "famous Dr. John Gaynam," known as the "Bishop of Hell:" he made a large income and in his time coupled legions; and at the bottom were a parcel of fellows who would marry any couple anywhere for anything. The Fleet Parson of standing kept a pocket-book in which he roughly jotted down the particulars of each marriage, transcribing the more essential details to a larger register at home. Certificates, at a varying charge, were made out from these, and the books being thus a source of profit were preserved with a certain care. To falsify such documents was child's play. Little accidents (as a birth in the midst of the ceremony) were dissembled by inserting the notice of the marriage in some odd corner of a more or less ancient record. This antedating of registers was so common as almost to deprive them of any value as evidence. Worse still,

certificates were now and again issued, though there had been no marriage. Sometimes the taverners kept registers of their own, but how to establish a fixed rule?

Not all the "marriage houses," as they were called, were taverns. They were often distinguished by some touching device: as a pair of clasping hands with the legend "Marriages Performed Within." A feature of the system was the *plyer* or *barker*, who, dressed in ragged and rusty black, touted for Parson or publican, or it might be for self, vaunting himself the while clerk and register to the Fleet. "These ministers of wickedness" (thus, in 1735, a correspondent of *The Grub Street Journal*) "ply about Ludgate Hill, pulling and forcing the people to some peddling alehouse or a brandy-shop to be married, even on a Sunday stopping them as they go to church, and almost tearing their clothes off their backs." If you drove Fleetwards with matrimony in your eye, why, then you were fair game:—

Scarce had the coach discharg'd its trusty fare,
But gaping crowds surround th' amorous pair,

The busy plyers make a mighty stir,
And whisp'ring, cry, "D'ye want the Parson, Sir?"

Yet the great bulk of Fleet marriages were in their own way orderly and respectable. Poor people found them shortest and cheapest. Now and again there are glimpses of rich or high-born couples: as, in 1744, the Hon. H. Fox with Georgina Caroline, eldest daughter of Charles, second Duke of Richmond, of which union Charles James was issue. One odd species was a parish wedding: the churchwardens thought it an ingenious device to bribe some blind or halting youth, the burden of a neighbouring parish, to marry a female pauper chargeable to them; for, being a wife she immediately acquired her husband's settlement, and they were rid of her. In one case they gave forty shillings and paid the expense of a Fleet marriage; the rag, tag, and bobtail attended in great numbers and a mighty racket was the result. According to the law then and long after, a woman by marrying transferred the burden of her debts to her

husband. So some desperate spinsters hied them Fleetwards to dish their creditors; plyer or Parson soon fished up a man; and though, under different *aliases*, he were already wived like the Turk, what mattered it? The wife had her "lines," and how to prove the thing a sham? Husbands, again, had a reasonable horror of their wives' antenuptial obligations. An old superstition, widely prevalent in England, was that if you took nothing by your bride you escaped liability. Obviously, then, the thing to do was to marry her in what Winifred Jenkins calls "her birthday soot," or thereabouts. So "the woman ran across Ludgate Hill in a shift," for thus was her state of destitution made patent to all beholders.

When the royal fleet came in, the crews, "panged" full of gold and glory, made straight for the taverns of Ratcliffe Highway, and of them, there footing it with their Polls and Molls, some one asked, "Why not get married?" Why not, indeed? Coaches are fetched; the party make off to the Fleet; plyers, Parsons, and publicans, all

welcome them with open arms ; the knots are tied in less than no time ; there is punch with the officiating cleric ; the unblushing fair are crammed into the coaches ; Jack, his pocket lighter, his brain heavier, climbs up on the box or holds on behind ; the populace acclaims the procession with old shoes, dead cats, and whatever Fleet Ditch filth comes handy ; and so back to their native *Radcliffe*, to spend their honeymoon in “fiddling, piping, jigging, eating,” and to end the bout with a divorce even less ceremonious than their nuptials. “It is a common thing,” reports a tavern-keeper of that sea-boys’ paradise, “when a fleet comes in to have two or three hundred marriages in a week’s time among the sailors.”

The work was mostly done cheap : the Parson took what he could get, and every one concerned must have his little bit. Thus, “the turnkey had a shilling, Boyce (the acting clerk) had a shilling, the plyer had a shilling, and the Parson had three and sixpence”—the total amounting to six shillings and sixpence. This was a fair average,

though now and again the big-wigs netted large sums.

A Fleet marriage was as valid as another ; but in trials for bigamy the rub was : Had there been any marriage at all ? Some accused would strenuously maintain the negative. In 1737 Richard Leaver was indicted at the Old Bailey for this offence ; and “ I know nothing about the wedding,” was his ingenuous plea. “ I was fuddled overnight and next morning I found myself a-bed with a strange woman and ‘ Who are you ? How came you here ? ’ says I. ‘ O, my dear,’ says she, ‘ we were marry’d last night at the Fleet.’ ” More wonderful still was the story told by one Dangerfield, charged the preceding year for marrying whilst Arabella Fast, his first wife, was still alive. Arabella and he, so he asserted, had plotted to blackmail a Parson with whom the lady entertained relations all too fond. At ten at night he burst in upon them as had been arranged. “ ‘ Hey ’ (says I), ‘ how came you a-bed with my spouse ? ’ ‘ Sir,’ (says he), ‘ I only lay with her to keep my

back warm.'” The explanation lacked probability, and “in the morning” the erring divine acknowledged his mistake :—“ I must make you a present if you can produce a certificate ” (he suspected something wrong, you see). Dangerfield was gravelled. Not so the resourceful Arabella. “For a crown I can get a certificate from the Fleet,” she whispered ; and ‘I gave her a crown, and in half an hour she brings me a certificate.’” The jury acquitted Dangerfield.

The clergyman said to have officiated in both cases was the “famous Dr. Gaynam” (so a witness described him), the aforesaid “Bishop of Hell.” How could he recollect an individual face, he asked, for had he not married his thousands? But it must be right if it was in his books : *he* never altered or falsified *his* register. “It was as fair a register as any church in England can produce. I showed it last night to the foreman of the jury, and my Lord Mayor’s clerk at the London punch-house” (a noted Fleet tavern) : so Gaynam swore at Robert Hussey’s trial for bigamy in 1733. A familiar figure

was the "Bishop" in Fleet taverns and Old Bailey witness-box. At Dangerfield's trial neither counsel nor judge was very complimentary to him ; but he was moved not a whit ; he was used to other than verbal attacks, and some years before this he was soundly cudgelled at a wedding—in a dispute about his fees, no doubt. "A very lusty, jolly man," in full canonicals, a trifle bespattered from that Fleet Ditch on whose banks he had spent many a scandalous year, his florid person verging on over-ripeness, even decay, for he vanishes four years later. Was he not ashamed of himself ? sneered counsel. Whereupon "he (bowing) *video meliora, deteriora sequor*." Don't you see the reverend rogue complacently mouthing his tag ? He "flourished" 'twixt 1709 and 1740. On the fly-leaf of one of his pocket-books he wrote :

The Great Good Man w^m fortune may displace,
May into scarceness fall, but not disgrace,
His sacred person none will dare profane,
Poor he may be, but never can be mean,
He holds his value with the wise and good,
And prostrate seems as great as when he stood.

The personal application was obvious; but alas for fame! Even in Mr. Leslie Stephen's mighty dictionary his record is to seek.

Time would fail to trace the unholy succession of Fleet Parsons. There was Edward Ashwell (1734-1743), "a most notorious rogue and impostor." There was Peter Symson (1731-1754), who officiated at the "Old Red Hand and Mitre," headed his certificates G.R., and bounced after this fashion:—"Marriages performed by authority by the Reverend Mr. Symson, educated at the University of Cambridge, and late Chaplain to the Earl of Rothes. N.B.—Without imposition." Then there was James Landow (1737-1743), late Chaplain to His Majesty's ship *Falkland*, who advertised "Marriage with a licence, certificate, and a crown stamp at a guinea, at the New Chapel, next door to the China Shop, near Fleet Bridge, London." Of an earlier race was Mr. Robert Elborrow (1698-1702): "a very ancient man and is master of ye chapple" (he seems to have been really "the Parson of the Fleet").

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His chief offence was leaving everything to his none too scrupulous clerk, Bassett. There is some mention also of the Reverend Mr. Nehemiah Rogers, a prisoner, "but goes at larg to his living in Essex and all places else." Probably they were glad to get rid of him for "he has struck and boxed ye bridegroom in ye Chapple and damned like any com'on souldier." *Mulli praeterea, quos fama obscura recondit.* How to fix the identity of the "tall black clergyman" who, hard by "The Cock" in Fleet Market, pressed his services on loving couples? Was he one with the "tall Clergyman who plies about the Fleet Gate for Weddings," and who in 1734 was convicted "of swearing forty-two Oaths and ordered to pay £4 2s."?

In 1753 Lord Hardwicke's Marriage Act (26 Geo. II. cap. 3) put a sudden stop to the doings of those worthies. Save in the case of Jews and Quakers, all marriages were void unless preceded by banns or licence and celebrated according to the rites of the Church of England in a church or chapel of

that communion. The Priest who assisted at an irregular or clandestine marriage was guilty of a felony punishable by fourteen years' transportation. The Bill was violently opposed; and, according to Horace Walpole, was crammed down the throats of both Houses; but its policy, its effects, as well as later modifications of the marriage law, are not for discussion here.

I turn to the registers wherein the doings of the Fleet Parsons are more or less carefully recorded. In 1783 most of those still extant had got into the hands of Mr. Benjamin Panton. "They weighed more than a ton"; were purchased by the Government for £260 6s. 6d., and to-day you may inspect them at Somerset House. There are between two and three hundred large registers and a thousand or more pocket-books (*temp.* 1674-1753). Not merely are the records of marriages curious in themselves, but also they are often accompanied by curious comments from the Parson, clerk, taverner, or whoever kept the book. The oddest collection is in a volume of date 1727-1754. The

writer used Greek characters, though his words are English, and is as frank as Pepys, and every bit as curious. Here are a few samples from the lot: "Had a noise for four hours about the money" was to be expected where there were no fixed rates; but "stole my clouthes-brush," and "left a pott of 4 penny to pay," and "ran away with the scertifycate and left a pint of wine to pay for," were surely cases of exceptional roguery. Curious couples presented themselves:—"Her eyes very black and he beat about ye face very much." Again, the bridegroom was a boy of eighteen, the bride sixty-five, "brought in a coach by four thumping ladies" (the original is briefer and coarser) "out of Drury Lane as guests"; and yet the Parson had "one shilling only." He fared even worse at times. Once he married a couple, money down, "for half a guinea," after which "it was extorted out of my pocket, and for fear of my life delivered." Even a Fleet Parson had his notion of propriety. "Behav'd very indecent and rude to all," is one entry; and "N.B. behav'd

rogueshly. Broke the Coachman's Glass," is another. Once his reverence, "having a mistrust of some Irish roguery," though the party seemed of better rank than usual, asked indiscreet questions. The leader turned on him with the true swagger of your brutal Georgian bully. "What was that to me? G—— dem me, if I did not immediately marry them he would use me ill; in short, apprehending it to be a conspiracy, I found myself obliged to marry them *in terrorem*." Again, he had better luck on another occasion: "handsomely entertained," he records; and of a bride of June 11, 1727, "the said Rachel, the prettiest woman I ever saw." (You fancy the smirk wherewith he scrawled that single record of the long vanished beauty!) He is less complimentary to other clients. His "appear^d a rogue" and "two most notorious thieves" had sure procured him a broken pate had his patrons known! How gleefully and shamelessly he chronicles his bits of sharp practice! "Took them from Brown who was going into the next door with

them," was after all merely business; but what follows is *not*. In 1729 he married Susannah Hewitt to Abraham Wells, a butcher. The thing turned out ill; and in 1736 she came back, and suggested annulment by the simple expedient of destroying the record; when "I made her believe I did so, for which I had a half a guinea." Nor was there much honour among the crew of thieves. "Total three and sixpence, but honest Wigmore kept all the money so farewell him," is an entry by the keeper of a marriage house, whom a notorious Fleet Parson had dished. Another is by a substitute for the same divine:—"Wigmore being sent for but was drunk, so I was a stopgap." I confess to a sneaking fondness for those entertaining rascals, but enough of their pranks.

Of the other places where irregular marriages were celebrated two demand some notice. One was Keith's Chapel in Mayfair, "a very bishopric of revenue" to that notorious "marriage broker" the Reverend Alexander Keith. His charge was a guinea, and, being strictly inclusive, covered "the

Licence on a Crown Stamp, Minister's and Clerk's fees, together with the certificate." No wonder he did a roaring trade! Keith seemed a nobler quarry than the common Fleet Parson, and the ecclesiastical authorities pursued him in their courts. In October 1742, he was excommunicated: with matchless impudence he retorted by excommunicating his persecutors from the Bishop downwards. Next year they stuck him in the Fleet; but, through Parsons as reckless as himself, he continued to "run" his chapel. In 1749 he made his wife's death an occasion for advertisement: the public was informed that the corpse, being embalmed, was removed "to an apothecary's in South Audley Street, where she lies in a room hung with mourning, and is to continue there until Mr. Keith can attend her funeral." Then follows an account of the chapel. One authority states that six thousand marriages were celebrated there within twelve months; but this seems incredible. That sixty-one couples were united the day before Lord Hardwicke's Act became law is like enough.

Here took place, in 1752, the famous marriage of the fourth Duke of Hamilton to the youngest of the "beautiful Miss Gunnings," "with a ring of the bed curtain half an hour after twelve at night," as Horace Walpole tells. And here, in September 1748, at a like uncanny hour, "handsome Tracy was united to the buttermilk's daughter in Craven Street." Lord Hardwicke's Act was elegantly described as "an unhappy stroke of fortune" by our enterprising divine. At first he threatened another form of competition:—"I'll buy two or three acres of ground and by God I'll under-bury them all." But in the end he had to own himself ruined. He had scarce anything, he moaned, but bread and water, although he had been wont to expend "almost his whole Income (which amounted yearly to several Hundred Pounds per Annum) in relieving not only single distressed Persons, but even whole Families of wretched Objects of Compassion." The world neither believed nor pitied; and he died in the Fleet on December 17, 1758.

Last of all comes the Savoy. There, *The Public Advertiser* of January 2, 1754, announced, marriages were performed "with the utmost privacy, decency, and regularity, the expense not more than one guinea, the five shilling stamp included. There are five private ways by land to this chapel, and two by water." The Reverend John Williamson, "His Majesty's Chaplain of the Savoy," asserted that as such he could grant licences; and despite the Act he went on coupling. In 1755 he married the enormous number of one thousand one hundred and ninety; half the brides being visibly in an interesting condition. The authorities, having warned him time and again to no purpose, at last commenced proceedings. But he evaded arrest by skipping over roofs and vanishing through back doors, in a manner inexplicable to us to-day; and went on issuing licences, while his curate, Mr. Grierson, did the actual work at the altar. Grierson, however, was seized and transported for fourteen years: then his chief surrendered (1756), stood his trial, and received a like

sentence; the irregular marriages both had performed being declared of no effect.

What now were the amorous to do? Well, there were divers makeshifts. Thus, at Southampton (*temp.* 1750), a boat was held ever ready to sail for Guernsey with any couple able and willing to pay five pounds. Ireland did not impress itself on the lovers' imagination: it may be that the thought of that gruesome middle passage "froze the genial current of their souls." But there was a North as well as a South Britain; and—what was more to the purpose—the Scots marriage law was all that heart could wish. Marriage (it held) is a contract into which two parties not too young and not too "sib" might enter at any time, all that was necessary being that each party clearly and in good faith expressed consent. Neither writing nor witnesses, however important for proof, were essential to a valid union. Not that the Scots law, civil or ecclesiastical, favoured this happy despatch; but the very punishment it imposed only tied the knot tighter. Couples of set purpose confessed

their vows, got a small fine inflicted, and there was legal evidence of their union! Ecclesiastical discipline was strict enough to prevent regularly instituted Scots ministers from assisting at such affairs. But any man would do (for, after all, he was but a witness), and the first across the Border as well as or better than another. Now, by a well-known principle of international law, the *lex loci contractus* governs such contracts: the marriage being valid in Scotland where it took place, was also recognised as valid in England where its celebration would have been a criminal offence! This was curiously illustrated early in the century by the case of Joseph Atkinson. The Border, I must explain, had all along been given to irregular marriages, and different localities in Scotland were used as best suited the parties. Lamberton Toll Bar, N.B., lay four miles north of Berwick-on-Tweed; and here our Atkinson did a thriving business in the coupling line. One fine day he had gone to Berwick when a couple sought his service at the toll-house. A quaint fiction [presumes

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that everybody knows the law ; but here it turned out that nobody did, for the bride and groom instead of uniting themselves before the first comer rushed off to Berwick, and were there wedded by Lamberton. And not only was the affair a nullity ; but the unfortunate coupler was sentenced to seven years' transportation for offending against the English marriage laws.

Most of them, however, that went North on marriage bent, took the Carlisle road. A few miles beyond that city the little river Sark divides the two countries. Just over the bridge is the toll-house : a footpath to the right takes you to Springfield. Till about 1826 the North road lay through this village ; then, however, the way was changed, and ran by Gretna Green, which is nine and a half miles from Carlisle. These two places, together with the toll-house, are all in Gretna parish ; but of course the best known is Gretna Green : " the resort " (wrote Pennant) " of all amorous couples whose union the prudence of parents or guardians prohibits." The place acquired a world-wide fame : that

English plays and novels should abound in references to it, as they had done to the Fleet, was only natural ; but one of George Sand's heroes elopes thither with a banker's daughter, and even Victor Hugo hymns it in melodious verse, albeit his pronounciation is a little peculiar :

La mousse des près exhale
Avril, qui chante drin, drin,
Et met une succursale
De Cythère à Gretna Green.

And how to explain the fact that people hurried from the remotest parts of Scotland as well as from England, though any square yard of soil "frae Maidenkirke to Johnny Groat's" had served their purpose just as well ? The parishioners, indeed, sought not the service of their self-appointed priest ; but is there not an ancient saying as to the prophet's lack of honour among his own people ?

Now, if you travelled North in proper style, in a chaise and four, with post-boys and so forth, you went to the "King's Head" at Springfield, or, after the change

of road, more probably to Gretna Hall ; but your exact halting-place was determined at Carlisle. The postillions there, being in league with one or other of the Gretna inn-keepers, took you willy-nilly to one or the other hostelry. Were you poor and tramped it, you were glad to get the knot tied at the toll-house. Most of the business fell into a few hands. Indeed, the landlords of the various inns instead of performing the rite themselves usually sent for a so-called priest. A certificate after this sort was given to the wedded couple :—" Kingdom of Scotland, County of Dumfries, Parish of Gretna : these are to certify to all whom it may concern that (here followed the names) by me, both being present and having declared to me that they are single persons, have now been married after the manner of the law of Scotland." This the parties and their witnesses subscribed.

I shall not attempt to trace the obscure succession of Gretna Green priests. Joseph Paisley, who died in 1811, aged eighty-four, was, it seems, the original blacksmith ; but he

was no son of Tubal Cain, though he had been fisher, smuggler, tobacconist. He united man with woman even as the smith welds iron with iron—thus the learned explain his title. After Paisley, and connected with him by marriage, there was Robert Elliott, and several people of the name of Laing. In some rather amusing memoirs Elliott assures us that between 1811 and 1839 he performed three thousand eight hundred and seventy-two marriages; also that his best year was 1825, when he did one hundred and ninety-eight, and his worst 1839, when he did but forty-two. At the toll-bar there was a different line, whose most picturesque figure was Gordon, the old soldier. Gordon officiated in full regimentals, a large cocked hat on his head and a sword by his side. Here, too, Beattie reigned for some years before 1843. His occupation went to his head, for latterly he had a craze for marrying, so that he would creep up behind any chance couple and begin to mumble the magic words that made them one. The law has ever terrors for the unlettered, and the rustic bachelor fled at

Beattie's approach, as if he had been the pest. The "priests" sometimes used a mangled form of the Church of England service: which irreverence was probably intended as a delicate compliment to the nationality of most of their clients. The fees were uncertain. When the trembling parties stood hand in hand in inn or toll-bar, whilst the hoofs of pursuing post-horses thundered ever nearer, ever louder, or it might be that irate father or guardian battered at the door, it was no time to bargain. The "priest" saw his chance; and now and again he pouched as much as a hundred pounds.

Each house had its record of famous marriages. There was the story of how Lord Westmoreland sought the hand of the heiress of Child, the banker, and was repulsed with "Your blood, my Lord, is good, but money is better." My Lord and the young lady were speedily galloping towards the border, while Mr. Child "breathed hot and instant on their trace." He had caught them too, but his leader was shot down or

his carriage disabled by some trick (the legends vary), and he was too late after all. He made the best of it, of course, and in due time Lady Sophia Fane, daughter of the marriage, inherited grandpa's fortune and his bank at Temple Bar. Odder still was the marriage, in 1826, of Edward Gibbon Wakefield to Ellen Turner. It was brought about by an extraordinary fraud, and a week after the far from happy couple were run to earth at Calais by the bride's relatives. They "quoted William and Mary upon me till I was tired of their Majesties' names," was Wakefield's mournful excuse for submitting to a separation. He was afterwards tried for abduction, found guilty, and sentenced to three years' imprisonment; while a special Act of Parliament (7 and 8 Geo. IV. c. 66) declared the marriage null and void. Wakefield ended strangely as a political economist. Is not his "theory of colonisation" writ large in all the text books? A pair of Lord High Chancellors must conclude our list. In November 1772, John Scott, afterwards Lord Eldon, was married at Blackshiels, in East

Lothian, to Bessie Surtees, the bridegroom being but twenty-one. Though the Rev. Mr. Buchanan, minister of an Episcopal congregation at Haddington, officiated, it was a runaway match and an irregular marriage. Lord Erskine, about October 1818, was wedded at the "King's Head," Springfield, to Miss Mary Buck (said to have been his housekeeper). He was about seventy, and, one fears, in his dotage. A number of extravagant legends still linger as to the ceremony. He was dressed in woman's clothes, and played strange pranks. He and his intended spouse had with them in the coach a brace of merry-begots (as our fathers called them), over whom he threw his cloak during the ceremony in order to make them his heirs. It is still a vulgar belief in the North that if the parents of children born out of wedlock are married, the offspring, to be legitimised, must be held under their mother's girdle through the nuptial rites. Now, by the law of Scotland, such a marriage produces the effect noted; but the presence or absence of the children is void of legal con-

sequence. As far as is known, Erskine had one son called Hampden, born December 5, 1821, and no other by Mary Buck. It is worth noting that Robert Burns, on his road to Carlisle in 1787, fell in by the way "with a girl and her married sister"; and "the girl, after some overtures of gallantry on my side, sees me a little cut with the bottle, and offers to take me in for a Gretna Green affair." Burns was already wed, Scots fashion, to Jean Armour. And the thing did not come off, so that bigamy is not to be reckoned among the poet's sins.

They were rather sordid affairs in the end, those Gretna Green marriages. So, at least, the Reverend James Roddick, minister of the parish, writing of the place in 1834 in the *New Statistical Account*, would have us believe. There were three or four hundred marriages annually: "the parties are chiefly from the sister kingdom and from the lowest rank of the population." A number came from Carlisle at fair-time, got married, spent a few days together, and then divorced themselves. Competition had brought down the

priest's fee to half-a-crown, and every tippling-house had its own official. Nay, the very roadman on the highway that joined the kingdoms pressed his services on all and sundry! And then the railway came to Gretna, and you had the spectacle of "priests" touting on the platform. Alas for those shores of old Romance! In 1856, Lord Brougham's Act (19 & 20 Vict. cap. 96), made well-nigh as summary an end of Gretna as Lord Hardwicke's had of the Fleet unions. It provided that at least one of the parties to an irregular Scots marriage must be domiciled in Scotland, or have resided there during the twenty-one days immediately preceding the espousals; else were they altogether void. What an enemy your modern lawgiver is to the picturesque! And what an entertaining place this world must once have been!

The Border Law

The Border Country—Its Lays and Legends—The Wardens and Other Officers—Johnie Armstrong—Merrie Carlisle—Blackmail—The Border Chieftain and His Home—A Raid—"Hot-trod"—"To-names"—A Bill of Complaint—The Day of Truce—Business and Pleasure—"Double and Salfye"—Border Faith—Deadly Feud—The Story of Kinmont Willie—The Debateable Land—The Union of the Crowns and the End of Border Law.

LEGES MARCHIARUM, to wit, the Laws of the Marches; so statesmen and lawyers named the codes which said, though oft in vain, how English and Scots Borderers should comport themselves, and how each kingdom should guard against the other's deadly unceasing enmity. I propose to outline these laws, and the officials by whom and courts wherein they were enforced.

But first a word as to country and people. From Berwick to the Solway—the extreme points of the dividing line between North

and South Britain—is but seventy miles in a crow's flight. But trace its windings, and you measure one hundred and ten. Over more than half of this space the division is arbitrary. It happened where the opposing forces balanced. The Scot pushed his way a little farther south here, was pushed back a little farther north there; and commissioners and treaties indelibly marked the spots. The conflict lasted over three centuries, and must obviously be fiercest on the line where the kingdoms met. If it stiffened, yet warped, the Scots' character, and prevented the growth of commerce and tilth and comfort in Scotland proper, what must have been its effect on the Scots Borderer, ever in the hottest of the furnace? The weaker, poorer, smaller kingdom felt the struggle far more than England, yet the English were worse troubled than the Scots Borders: being the richer, they were the more liable to incursion; their dalesmen were not greatly different from other Englishmen; they were kept in hand by a strong central authority; they had thriving towns and a certain

standard of wealth and comfort. Now, the Scots clansmen developed unchecked ; so it is mainly from them that we take our ideas of Border life.

The Border country is a pleasant pastoral land, with soft, rounded hills, and streams innumerable, and secluded valleys, where the ruins of old peels or feudal castles intimate a troubled past. That past, however, has left a precious legacy to letters, for the Border ballads are of the finest of the wheat. They preserve, as only literature can, the joys and sorrows, the aspirations, hopes and fears, and beliefs of other days and vanished lives. They are voices from the darkness, yet we oft feel :

He had himself laid hand on sword
He who this rime did write !

The most of them have no certain time or place. Even the traditional stories help but little to make things clear. Yet they tell us more, and tell it better, than the dull records of the annalists. We know who these men really were—a strong, resolute

race, passionate and proud, rough and cruel, living by open robbery, yet capable of deathless devotion, faithful to their word, hating all cowards and traitors to the death; not without a certain respect and admiration for their likes across the line, fond of jest and song, equal on occasion to a certain rude eloquence; and, before all, the most turbulent and troublesome. The Scots Borderers were dreaded by their own more peaceful countrymen; and to think of that narrow strip of country, hemmed in by the Highlands to the north and the Border clans on the south, is to shudder at the burden *it* had to endure. For a race, whatever its good qualities, that lives by rapine, is like to be dangerous to friends as well as foes. Some Border clans, as the Armstrongs and the Elliots, were girded at as “always riding”; and they were not particular as to whom they rode against. Nay, both governments suspected the Borderers of an inexplicable tenderness for their neighbours. When they took part in a larger expedition, they would attack each other with a suspicious

lack of heart. At best they were apt to look at war from their own point of view, and fight for mere prisoners or plunder.

To meet such conditions the Border Laws were evolved. They were administered in chief by special officers called Wardens. Either Border was portioned out into three Marches: the East, the Middle, and the West (the Lordship of Liddesdale was included in the Scots Middle March, but sometimes it had a special Keeper of almost equal dignity with a Warden. Each of the three Scots Wardens had a hundred pounds of yearly fee; he could appoint deputies, captains of strongholds, clerks, sergeants, and dempsters; he could call out the full force of his district to invade or beat back invasion; he represented the Sovereign, and was responsible for crimes. He must keep the Border clans in order by securing as hostages several of their most conspicuous sons, and either these were quartered on nobles on the other side of the Firth, or they were held in safer keeping in the king's castles. He also held Justice Courts for the trial of Scots

subjects accused of offences against the laws of their own country. He was commonly a great noble of the district, his office in early times being often hereditary; and, as such noble, he had power of life and death, so that the need for holding special courts was little felt. A pointed Scots anecdote pictures an angry Highlander "banning" the Lords of Session as "kinless loons," because, though some were relatives, they had decided a case against him. These Wardens were *not* "kinless loons," and they often used their office to favour a friend or depress a foe. On small pretext they put their enemies "to the horn," as the process of outlawry (by trumpet blast) was called. True, the indifference with which those enemies "went to the horn" would scandalise the legal pedants.

Sometimes a superior officer, called "Lieutenant," was sent to the Borders; the Wardens were under him; he more fully represented the royal power. Now and again the Sovereign himself made a progress, administering a rough and ready justice, and so "dantoning the thieves of the Borders,

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and making the rush bush keep the cow." So it was said of James V.'s famous raid in 1529. The chief incident was the capture of Johnie Armstrong of Gilnockie, the ruins of whose picturesque tower at the Hollows still overlook the Esk. Gilnockie came to meet his King with a great band of horse-men richly apparelled. He was captain of Langholm Castle, and the ballad tells how he and his companions exercised themselves in knightly sports on Langholm Lee, whilst "The ladies lukit frae their loft windows. 'God bring our men well hame agen!'" the ladies said: and their apprehensions were more than justified, for Johnie's reception was not so cordial as he expected. "What wants yon knave that a King should have?" asked James in angry amaze, as he ordered the band to instant execution. Gilnockie and company were presently strung up on some convenient yew-trees at Carlenrig, though, in accordance with romantic precedent, one is said to have escaped to tell the tale. Many of Johnie's name, among them Ill Will Armstrong, tersely described as

“another stark thieff,” went to their doom ; but the act, however applauded at Edinburgh, was bitterly condemned on the Borders. Gilnockie only plundered the English, it was urged, and the King had caught him by a trick unworthy a Stuart. The country folk loved to tell how the dule-trees faded away, and they loved to point out the graves of the Armstrongs in the lonely churchyard. But the stirring ballad preserves the name better than all else. It unblushingly commends Gilnockie’s love of honesty, his generosity, his patriotism, and directly accuses his Sovereign of treachery, in which accusation there is perhaps some truth. Anyhow, his execution was the violent act of a weak man, and had no permanent effect.

The Wardens had twofold duties : first, that of defence against the enemy ; second, that of negotiation in times of peace with their mighty opposites. Thus the Border laws were part police and part international, and were administered in different courts. Offences of the first class were speaking or

conferring with Englishmen without permission of the King or the Warden, and the warning Englishmen of the Scots' alertness in the matter of forays. In brief, aiding, abetting, or in any way holding intercourse with the "auld enemy" was march treason (to adopt a convenient English term).

In England the Wardens were finally chosen for their political and military skill, not because of their territorial position. Now, the Warden of the East Marches was commonly Governor and Castellan of Berwick. The castle of Harbottell was allotted to the Warden of the Middle Marches; whilst for the West, Carlisle, where again Governor and Warden were often one, was the appointed place. Sometimes a Lord warden-general was appointed, sometimes a Lieutenant, but the Wardens were commonly independent. At the Warden courts Englishmen were punished for march treason, a branch of which was furnishing the Scots with articles of merchandise or war. And here I note that Carlisle throve

on this illegal traffic. At Carlisle Fair the Carlisle burgher never asked the nationality of man or beast. The first got his money or its equivalent; the second was instantly passed through the hands of butcher and skinner. Though the countryside were wasted, the burghers lay safe within their strong walls, and waxed fat on the spoils of borderman and dalesman alike. Small wonder the city was "Merrie Carlisle." The law struck with as little force against blackmail, or protection money, which it was an offence to pay to any person, Scots or English. From this source, Gilnockie and others, coining the terror of their name, drew great revenue. Another provision was against marriage with a Scotswoman without the Warden's consent, for in this way traitors, or "half-marrows," arose within the gate. Complete forms are preserved of the procedure at those Warden courts. There were a grand jury and an ordinary jury, and the Warden acted very much as a judge of to-day. One or two technical terms I shall presently explain. Here I but note that the

criminal guilty of march treason was beheaded "according to the customs of the marches."

The international duties of the Wardens were those of conference with each other, and the redressing of approved wrongs, which wrongs were usually done in raids or forays. Of these I must now give some account. The smaller Border chieftain dwelt in a peel tower, stuck on the edge of a rock or at the break of a torrent. It was a rude structure with a projecting battlement. A stair or ladder even held its two stories together, and about it lay a barnkin—a space of some sixty feet encompassed by a wall; the laird's followers dwelling in huts hard by. For small parties the tower was self-sufficient in defence, and if it lay in the way of a hostile army, the laird was duly warned by scouts or beacon fires, and withdrew to some fastness of rock or marsh, carrying his few valuables, driving his live stock before him, leaving the foeman nothing to burn and nothing to take away. With his followers he lived on milk, meat, and barley, together with the spoils of

the forest and stream. The marchmen are reported temperate—no doubt from necessity. Their kine, recruited by forays, were herded in a secluded part of the glen, and when the herd waxed small, and the laird was tired of hunting, and his women lusted after new ornament, and old wounds were healed, and the retainers were growing rusty, then it was time for a raid. Was the laird still inactive? In struck his lady's sharper wit, and the story goes that Wat Scott of Harden was ever and anon served with a dish which, being uncovered, revealed a pair of *polished* spurs. Thus his wife, Mary Scott, the "Flower of Yarrow"—a very practical person, despite her romantic name—urged him to profitable rapine. Well: his riders were bidden to a trysting-place; and hither, armed in jacks (which are leathern jerkins plated with iron) and mounted on small but active and hardy horses, they repaired at evenfall. The laird and some superior henchmen wore also sleeves of mail and steel bonnets; all had long lances, swords, axes, and in later times such rude firearms—serpentes, half-haggs, har-

quebusses, currys, cullivers, and hand-guns are mentioned—as were to be had. In the mirk night the reivers crossed the Border; and to do this unseen was no easy matter. The whole line from Berwick to Carlisle was patrolled by setters and searchers, watchers and overseers, having sleuth-hounds to track the invader; also, many folk held lands by the tenure of cornage, and by blowing horns must warn the land of coming raids. Where the frontier line was a river the fords were carefully guarded; those held unnecessary were staked up; narrow passes were blocked in divers ways, so that chief element in Border craft was the knowledge of paths and passes through moorland and moss, and of nooks and coigns of security deep in the mountain glens.

Our party crosses in safety and makes to one of those hidden spots, as near as may be to the scene of action. Here it rests and refreshes itself during the day, and next night it swoops down on its appointed foray. The chief quest was ever cattle, which were eatable and portable. But your moss-

trooper was not particular. He took everything inside and outside house and byre. Many lists are preserved of things lifted, whereof one notes a shroud and children's clothes. A sleuth-hound was a choice prize. Possibly its abduction touched the Borderer's sense of humour. Scott of Harden, escaping from a raid, with "a bow of kye and a bassen'd (brindled) bull," passed a trim haystack. He sighed as he thought of the lack of fodder in his own glen. "Had ye but four feet ye should not stand lang there," he muttered as he hurried onwards. Not to him, not to any rider was it given to tarry by the way, for the dalesmen were not the folk to sit down under outrage. The warder, as he looked from the "Scots gate" of Carlisle castle, and saw the red flame leaping forth into the night from burning homestead or hamlet, was quick to warn the countryside that a reiving expedition was afoot. Even though the prey were lifted unobserved, that only caused a few hours' delay, and soon a considerable body, carrying a lighted piece of turf on a spear, as a sign, was instant

on the invader's trace. This "following of the fraye" was called "hot-trod," and was done with hound and horn, and hue and cry. Certain privileges attached to the "hot-trod." If the offender was caught red-handed he was executed; or, if thrift got the better of rage, he was held to ransom. As early as 1276 a curious case is reported from Alnwick, of a Scot attacking one Semanus, a hermit, and taking his clothes and one penny! Being presently seized, the culprit was beheaded by Semanus in person, who thus recovered his goods and took vengeance of his wrong. A later legend illustrates the more than summary justice that was done. The Warden's officers having taken a body of prisoners, asked my Lord his pleasure. His Lordship's mind was "ta'en up wi' affairs o' the state," and he hastily wished the whole set hanged for their untimely intrusion. Presently he was horrified to find that his imprecations had been taken as literal commands, and literally obeyed. Even if the reivers gained their own border, the law of "hot-trod" permitted pursuit within six

days of the offence. The pursuer, however, must summon some reputable man of the district entered to witness his proceedings. Nay, the inhabitants generally must assist him—at least, the law said so.

But if all failed, the *Leges Marchiarum* had still elaborate provisions to meet his case. He had a shrewd guess who were his assailants. The more noted moss-troopers were “kenspeckle folk.” The very fact that so many had the same surname caused them to be distinguished by what were called “to-names,” based on some physical or moral characteristic, which even to-day photographs the man for us. Such were Eddie Great-legs, Jock Half-lugs, Red-neb Hob, Little Jock Elliott, Wynkyng Wyll, Wry-crag, Ill Wild Will, Evil Willie, David the Leddy, Hob the King; or some event in a man’s history provided a “to-name.” Ill Drooned Geordy, you fancy, had barely escaped a righteous doom, and Archie Fire-the-Braes was sure a swashbuckler of the first magnitude. Others derived from their father’s name.

The Lairdis Jok
All with him takis.

Thus, Sir Thomas Maitland, who has preserved some of these appellations in his *Complainte Aganis the Thievis of Liddisdail*, apparently the only weapon he—though Scots Chancellor—could use against them. Other names, the chroniclers affirm, are more expressive still ; but modern prudery forbids their recovery. They were good enough headmark, whatever their quality ; and a harried household had but to hear one shouted in or after the harrying to know who the harriers were. The slogan, or war-cry, of the clan would rap out in the excitement, and there again he knew his men. The cross of St. Andrew showed them to be Scots, the cross of St. George affirmed them English. A letter sewn in a cap, a kerchief round the arm, were patent identification. The chieftain's banner was borne now and again, even in a daylight foray—a mode affected by the more daring spirits.

Divining in some sort his spoiler, the

aggrieved and plundered sought legal redress. Now the Laws of the Marches, agreed on by royal commissioners from the two kingdoms, regulated intercourse from early times. Thus as early as 1249, eleven knights of Northumberland, and as many from the Scots Border, drew up a rough code: for the recovery of debts, the surrender of fugitive bondsmen, and the trial by combat of weightier matters in dispute. All Scotsmen, save the king and the bishops of St. Andrews and Dunkeld, accused of having committed a crime in England, must fight their accuser at certain fixed places on the Marches; and there were corresponding provisions when the accused was an Englishman. What seems a form of the *judicium Dei* appears in another provision. An animal said to be stolen, being brought to the Tweed or the Esk, where either formed the boundary, was driven into the water. If the beast sank the defendant paid. If it swam to the farther shore, the claimant had him as his own. If it scrambled back to the bank whence it started, the accused might (perchance) retain

it with a clear conscience. But as to this event the record is silent ; and, indeed, the whole business lacks intelligibility. The combats, however, were many, and were much denounced by the clergy, who had to provide a champion, and were heavily mulcted if he lost. The priest suffered no more than the people ; but he could better voice his wrongs. All such things were obviously adaptations of the trial by ordeal, or by combat, and the treason duel of chivalry, to the rough life of the Border. Again, the matter was settled, even in late times, by the oath of the accused. The prisoner was sworn :—“By Heaven above you, Hell beneath you, by your part of Paradise, by all that God made in six days and seven nights, and by God Himself,” that he was innocent. In a superstitious age this might have some effect ; and there was ever the fear of being branded as perjured. But it can have been used only when there was no proof, or when the doubt was very grave : when the issue, that is, seemed as the cutting

of a knot, the loosing whereof passed man's wit.

In the century preceding the Union of the Crowns, the international code was very highly developed, and the procedure was strictly defined. As England was the larger nation, and as its law was in a more highly developed and more firm and settled state, its methods were followed on the whole. The injured party sent a bill of complaint to his own Warden; and the bill, even as put into official form, was simplicity itself. It said that A. complained upon B. for that—and then followed a list of the stolen goods, or the wrongs done. It was verified by the complainant's oath, and thereafter sent to the opposite Warden, whose duty was to arrest the accused or at least to give him notice to attend on the next Day of Truce. [One famous fray (June 17, 1575) is commemorated in *The Raid of the Reidswire*, a ballad setting forth many features of a Day of Truce.] The Wardens agreed on the Day, and the place was usually in the northern kingdom, where most of the defendants lived. The

meeting was proclaimed in all the market towns on either side. The parties, each accompanied by troops of friends, came in ; and a messenger from the English side demanded that assurance should be kept till sunrise the following day. This was granted by the Scots, who proceeded to send a similar message, and were presently secured by a similar assurance. Then each Warden held up his hand as a sign of faith, and made proclamation of the Day to his own side (the evident purpose of this elaborate ritual was to keep North and South from flying, on sight, at each other's throats). The English Warden now came to his Scots brother, whom he saluted and embraced ; and the business of the Day of Truce (or Diet, or Day Marche, or Warden Court, as it was variously called) began. That business was commerce, and pleasure, as well as law. Merchants come with their wares ; booths were run up ; a brisk trade ran in articles tempting to the savage eye. Both sides were ready for the moment to forget their enmities. If they could not fight, they could

play, and football was ever your Borderers' favourite pastime (from the desperate mauls which mark that exhilarating sport as practised along the Border line, one fancies that the "auld riding bluid" still stirs in the veins of the players). Gambling, too, was a popular excitement. There was much of feasting and drinking, and sure some Border Homer, poor and old and blind, even as him of Chios, was there to charm and melt his rude hearers with the storied loves and wars of other days. The conclave fairly hummed with pleasure and excitement. Yet with such inflammable material, do you wonder that the meeting ended now and again in most admired disorder?

For our bill of complaint, it might be tried in more than one way. It might be by "the honour of the Warden," who often had knowledge, personal or acquired, of the case, and felt competent to decide the matter off-hand. On his first appearance he had taken an oath (yearly renewed) in presence of the opposite Warden and the whole assemblage to do justice, and he now officially "fyled"

or "cleared the bill" (as the technical phrase ran) by writing on it the words "foull (or 'clear'), as I am verily persuaded upon my conscience and honour"—a deliverance after the method wherein individual peers give their voice at a trial of one of their order. This did not of necessity end the matter, for the complainant could present a new bill and get the verdict of a jury thereon, which also was the proper tribunal where the Warden declined to interfere. It was thus chosen: The English Warden named and swore in six Scots, the Scots Warden did the like to six Englishmen. The oath ran in these terms:—"Yea shall cleane noe bill worthie to be fild, yea shall file no bill worthie to be cleaned," and so forth. Warden sergeants were appointed who led the jury to a retired place; the bills were presented; and the jurymen fell to work. It would seem that they did so in two sections, each considering complaints against its own nationality. If the bill was "fyled," the word "foull" was written upon it (of course, a verdict of guilty); but how

to get such a verdict under such conditions ? The assize had more than a fellow-feeling for the culprit : like the jury in Aytoun's story, they might think that Flodden (then no distant memory) was not yet avenged. There were divers expedients to this end. Commissioners were sometimes appointed by the two crowns to solve a difficulty a Warden Court had failed to adjust. Again, it was strangely provided that "If the accused be not quitt by the oathe of the assize it is a conviction." One very stubborn jury (*temp.* 1596) sat for a day, a night, and a day on end, "almost to its undoeinge." The Warden, enraged at such conduct and yet fearing for the men's lives, needs must discharge them. I ought to mention an alleged third mode of trial by vower, who, says Sir Walter Scott, was an umpire to whom the dispute was referred. Rather was he a witness of the accused's own nation. Some held such evidence essential to conviction ; if honest, it was practically conclusive.

Well ! Suppose the case too clear and the

man too friendless, and the jury "fyled" the bill. If the offence were capital, the prisoner was kept in safe custody, and was hanged or beheaded as soon as possible. But most affairs were not capital. Thus the Border Law forbade hunting in the other kingdom without the express leave of the owner of the soil. Just such an unlicensed hunting is the theme of *Chevy Chase*. Thus :—

The Percy owt of Northumberland,
And a vow to God mayd he,
That he wolde hunte in the mountayns
Off Cheviot within dayes thre,
In the mauger of doughty Douglas,
And all that ever with him be.

Douglas took a summary mode of redress where a later and tamer owner had lodged his bill. In a common case of theft, if the offender were not present (the jury would seem to have tried cases in absence), the Warden must produce him at the next Day of Truce. Indeed, whilst the jury was deliberating, the officials were going over the bills "filed" on the last Day, and handing over each culprit to the opposite Warden;

or sureties were given for him; or the Warden delivered his servant as pledge. If the pledge died, the body was carried to the next Warden Court.

The guilty party, being delivered up, must make restitution within forty days or suffer death, whilst aggravated cases of "lifting" were declared capital. In practice a man taken in fight or otherwise was rarely put to death. Captive and captor amicably discussed the question of ransom. That fixed, the captive was allowed to raise it; if he failed he honourably surrendered. The amount of restitution was the "Double and Salfye," to wit, three times the value of the original goods, two parts being recompense, and the third costs or expenses. Need I say that this triple return was too much for Border honesty? Sham claims were made, and these, for that they obliged the Wardens "to speire and search for the thing that never was done," were rightly deemed a great nuisance. As the bills were sworn to, each false charge involved perjury; and in 1553 it was provided that the rascal claimants

should be delivered over to the tender mercies of the opposite Warden. Moreover, a genuine bill might be grossly exaggerated (are claims against insurance and railway companies always urged with accuracy of detail?). If it were disputed, the value was determined by a mixed jury of Borderers.

I have had occasion to refer to Border faith. In 1569 the Earl of Northumberland was implicated in a rising against Elizabeth. Fleeing north, he took refuge with an Armstrong, Hector of Harelaw, who sold him to the Regent Murray. Harelaw's name became a byword and a reproach. He died despised and neglected; and "to take Hector's cloak" was an imputation of treachery years after the original story had faded. Thus, in Marchland the deadliest insult against a man was to say that he had broken faith. The insult was given in a very formal and deliberate manner, called a Baugle. The aggrieved party procured the glove or picture of the traitor, and whenever there was a meeting (a Day of Truce was too favourable an opportunity to be neglected) he gave no-

tice of the breach of faith to friend and foe, with blast of the horn and loud cries. The man insulted must give him the lie in his throat, and a deadly combat ensued. The Laws of the Marches attempted to substitute the remedy by bill, that the matter might not "goe to the extremyte of a baughle," or where that was impossible, to fix rules for the thing itself. Or, the Wardens were advised to attend, with less than a hundred of retinue, to prevent "Brawling, buklinge, quarrelinge, and bloodshed." Such things were a fruitful source of what a Scots Act termed "the heathenish and barbarous custom of Deadly Feud." When one slew his fellow under unfair conditions, the game of revenge went see-sawing on for generations. The Border legislators had many ingenious devices to quench such strife. A Warden might order a man complained of to sign in solemn form a renunciation of his feud; and if he refused, he was delivered to the opposite Warden till he consented. In pre-Reformation days the church did something by enjoining prayer and pilgrimage. A sum of

money (Assythement) now and again settled old scores; or there might be a treaty of peace cemented by marriage. Sometimes, again, there was a fight by permission of the Sovereign. (*Cf.* the parallel case of the clauduel in the *Fair Maid of Perth*.) Still, prearranged single combats, duels in fact, were frequent on the Border. Turner, or Turnie Holme, at the junction of the Kirshope and Liddel, was a favourite spot for them.

And now business and pleasure alike are ended, and the day (fraught with anxiety to official minds) is waning fast. Proclamation is made that the multitude may know the matters transacted. Then it is declared that the Lord Wardens of England and Scotland, and Scotland and England (what tender care for each other's susceptibilities!) appoint the next Day of Truce, which ought not to be more than forty days hence, at such and such a place. Then, with solemn salutations and ponderous interchange of courtesy, each party turns homeward. As noted, the Truce lasted till the next sunrise. As the nations were at peace (else had there been no meet-

ing), this recognised the fact that the Borders were always, more or less, in a state of trouble. Also it prevented people from violently righting themselves forthwith. A curious case in 1596, where this condition was broken, gave rise to a Border foray of the most exciting kind, commemorated in the famous ballad of *Kinmont Willie*. A Day of Truce had been held on the Kershope Burn, and at its conclusion Willie Armstrong of Kinmont, a noted Scots freebooter, rode slowly off, with a few companions. Some taunt, or maybe the mere sight of one who had done them so much wrong, was too much for the English party, and Kinmont was speedily laid by the heels in Carlisle Castle. Buccleuch was Keeper of Liddisdale. He had not been present at the Day of Truce; but when they told him that Kinmont had been seized "between the hours of night and day," he expressed his anger in no uncertain terms:

He has ta'en the table wi' his hand,
He garr'd the red wine spring on hie.

* * * *

And have they ta'en him, Kinmont Willie,
Against the truce of Border tide ?
And forgotten that the bauld Buccleuch
Is keeper here on the Scottish side ?

Negotiations failing to procure redress, Buccleuch determined to rescue Kinmont himself. In the darkness of a stormy night he and his men stole up to Carlisle, broke the citadel, rescued Kinmont, and carried him off in safety, whilst the English lawyers were raising ingenious technical justifications (you can read them at length in the collection of Border Papers) of the capture. Those same papers show that the ballad gives the main features of the rescue with surprising accuracy. But I cannot linger over its cheerful numbers. The event might once have provoked a war, but the shadow of the Union was already cast. James would do nothing to spoil the splendid prize almost within his grasp, and Elizabeth's statesmen were not like to quarrel with their future master.

Half a century before the consummation one great cause of discord had been removed.

From the junction of the Liddel and Esk to the Solway was known as the Debateable Land, a sort of No-Man's Land, left in doubt from the time of Bruce. Both nations pastured on it from sunrise to sunset, but in the night any beasts left grazing were lawful prey to the first comer. Enclosures or houses on it could be destroyed or burned without remedy. Apparently the idea was to make it a "buffer State" between the two kingdoms. It was, however, a thorn in the flesh to each, for the Bateables, as the in-dwellers were called, were broken men, and withal the most desperate ruffians on the Border. In 1552 a joint Commission divided the Debateable Land between England and Scotland. The Bateables were driven out, and a dyke was built as boundary line. All the same, here was, for many years, the wildest in the whole wild whirlpool; so that long after the Union, when somebody told King James of a cow which, taken from England to Scotland, had broken loose and got home of itself, the British Solomon was sceptical. It gruelled him, he confessed, to imagine

any four-footed thing passing unlifted through the Debateable Land.

With the death of Elizabeth (1603) came the Union of the Crowns, and the Scots riders felt their craft in danger, for they forthwith made a desperate incursion into England, with some idea (it is thought) of staying the event. But they were severely punished, and needs must cower under the now all-powerful Crown. The appointment of effective Wardens presently ceased. In 1606, by the Act 4 Jac. I., cap. 1, the English Parliament repealed the anti-Scots laws, on condition that the Scots Parliament reciprocated; and presently a kindred measure was touched with the sceptre at Edinburgh. The administration of the Border was left to the ordinary tribunals, and the *Leges Marchiarum* vanished to the Lumber Room.

The Serjeant-at-Law

The Black Patch on the Wig—A King's Serjeant—
The Old English Law Courts—The Common Pleas
—Queen's Counsel—How Serjeants were Created
—Their Feasts—Their Posies—Their Colts—
Chaucer's Serjeant-at-Law—The Coif—The Fall
of the Order—Some Famous Serjeants.

You have no doubt, at some time or other, walked through the Royal Courts of Justice and admired the Judges in their scarlet or other bravery. One odd little detail may have caught your eye: a black patch on the top differences the wig of the present (1898) Master of the Rolls from those of his brethren. It signifies that the wearer is a Serjeant-at-Law, and when he goes to return no more, with him will probably vanish the Order of the Coif. Verily, it will be the "end o' an auld sang," of a record stretching back to the beginning of English jurisprudence, of an order whose passing had, at one time, seemed

as the passing of the law itself. Here in bare outline I set forth its ancient and famous history. And, first, as to the name. Under the feudal system land was held from the Crown upon various tenures. Sometimes special services were required from the holders; these were called Serjeants, and a tenure was said to be by Serjeanty. Special services, though usually military, now and again had to do with the administration of justice. A man enjoyed his plot because he was coroner, keeper of the peace, summoner, or what not; and, over and above the land, he had the fees of the office. A few offices, chiefly legal, came to have no land attached—were only paid in fees. Such a business was a Serjeanty in gross, or at large, as one might say. Again, after the Conquest, whilst the records of our law courts were in Latin, the spoken language was Norman-French—a fearful and wondrous tongue that grew to be—“as ill an hearing in the mouth as law-French,” says Milton scornfully—and indeed Babel had scarce matched it. But from the first it must have been a sore vexation to the

thick-witted Saxon haled before the tribunal of his conquerors. He needs must employ a *counter*, or man skilled in the *conter*, as the pleadings were called. The business was a lucrative one, so the Crown assumed the right of regulation and appointment. It was held for a Serjeanty in gross, and its holders were *servientes regis ad legem*. The word *regis* was soon omitted except as regards those specially retained for the royal service. The literal translation of the other words is Serjeants-at-law, still the designation of the surviving fellows of the order. The Serjeant-at-law was appointed, or, in form at least, commanded to take office by writ under the Great Seal. He was courteously addressed as "you," whilst the sheriff was commonly plain "thou" or "thee." The King's or Queen's Serjeants were appointed by letters patent; and though this official is extinct as the dodo, he is mentioned after the Queen's Attorney-General as the public prosecutor in the proclamation still mumbled at the opening of courts like the Old Bailey.

Now, in the early Norman period the *aula*

regis, or Supreme Court, was simply the King acting as judge with the assistance of his great officers of state. In time there developed therefrom among much else the three old common law courts; whereof the Common Pleas settled the disputes of subjects, the King's Bench, suits concerning the King and the realm, the Exchequer, revenue matters. Though the last two by means of quaint fictions afterwards acquired a share of private litigation, yet such was more properly for the Court of Common Pleas. It was peculiarly the Serjeants' court, and for many centuries, up to fifty years ago, they had the exclusive right of audience. Until the Judicature Acts they were the body of men next to the judges, each being addressed from the bench as "Brother," and from them the judges must be chosen, also until 1850 the assizes must be held before a judge or a Serjeant of the coif.

A clause in Magna Charta provided that the Common Pleas should not follow the King's wanderings, but sit in a fixed place; this fixed place came to be near the great

door of the Hall at Westminster. With the wind in the north the spot was cold and draughty, so after the Restoration some daring innovator proposed "to let it (the Court) in through the wall into a back room which they called the treasury." Sir Orlando Bridgeman, the Chief Justice, would on no account hear of this. To move it an inch were flagrant violation of Magna Charta. Might not, he darkly hinted, all its writs be thus rendered null and void? Was legal pedantry ever carried further? In a later age the change was made without comment, and in our own time the Common Pleas itself has gone to the Lumber Room. No doubt this early localising of the court helped to develop a special Bar. Other species of practitioners—barristers, attorneys, solicitors—in time arose, and the appointment of Queen's Counsel, of whom Lord Bacon was the earliest, struck the first real blow at the Order of the Coif; but the detail of such things is not for this page. In later days every Serjeant was a more fully developed barrister, and then and now, as is well known,

every barrister must belong to one of the four Inns of Court—the two Temples, Gray's Inn, and Lincoln's Inn to wit, whose history cannot be told here; suffice it to say they were voluntary associations of lawyers, which gradually acquired the right of calling to the Bar those who wished to practise.

Now, the method of appointment of Serjeants was as follows: The judges, headed by the Chief Justice of the Common Pleas, picked out certain eminent barristers as worthy of the dignity, their names were given in to the Lord Chancellor, and in due time each had his writ, whereof he formally gave his Inn notice. His House entertained him at a public breakfast, presented him with a gold or silver net purse with ten guineas or so as a retaining fee, the chapel bell was tolled, and he was solemnly rung out of the bounds. On the day of his call he was harangued (often at preposterous length) by the Chief Justice of the King's Bench, he knelt down, and the white coif of the order was fitted on his head; he went in procession to Westminster and "counted"

in a real action in the Court of Common Pleas. For centuries he did so in law-French. Lord Hardwicke was the first Serjeant who "counted" in English. The new-comer was admitted a member of Serjeants' Inn, in Chancery Lane, in ancient times called Farringdon Inn, whereof all the members were Serjeants. Here they dined together on the first and last days of term; their clerks also dined in hall, though at a separate table—a survival, no doubt, from the days when the retainer feasted, albeit "below the salt," with his master. Dinner done and the napery removed, the board of green cloth was constituted, and under the presidency of the Chief Judge the business of the House was transacted. There was a second Serjeants' Inn in Fleet Street, but in 1758 its members joined the older institution in Chancery Lane. When the Judicature Acts practically abolished the order, the Inn was sold and its property divided among the members, a scandalous proceeding and poor result of "the wisdom of an heap of lernede men" !

The Serjeant's feast on his appointment was a magnificent affair, *instar coronationis*, as Fortescue has it. In old times it lasted seven days; one of the largest palaces in the metropolis was selected, and kings and queens graced its quaint ceremonial. Stow chronicles one such celebration at the call of eleven Serjeants, in 1531. There were consumed "twenty-four great beefes, one hundred fat muttons, fifty-one great veales, thirty-four porkes," not to mention the swans, the larkes, the "capons of Kent," the "carcase of an ox from the shambles," and so forth. One fancies these solids were washed down by potations proportionately long and deep. And there were other attractions and other expenses. At the feast in October 1552, "a standing dish of wax representing the Court of Common Pleas" was the admiration of the guests; again, a year or two later, it is noted that each Serjeant was attended by three gentlemen selected by him from among the members of his own Inn to act as his sewer, his carver, and his cup-bearer. These

Gargantuan banquets must have proved a sore burden: they were cut down to one day, and, on the union of the Inns in 1758, given up as unsuited to the newer times.

One expense remained. Serjeants on their call must give gold rings to the Sovereign, the Lord Chancellor, the judges, and many others. From about the time of Elizabeth mottoes or "posies" were engraved thereon. Sometimes each Serjeant had his own device, more commonly the whole call adopted the same motto, which was usually a compliment to the reigning monarch or an allusion to some public event. Thus, after the Restoration the words ran: *Adeste Corolus Magnus*. With a good deal of elision and twisting the Roman numerals for 1660 were extracted from this, to the huge delight of the learned triflers. *Imperium et libertas* was the word for 1700, and *plus quam speravimus* that of 1714, which was as neat as any. The rings were presented to the judges by the Serjeant's "colt," as the barrister attendant on him through the ceremony was called (probably from *colt*, an apprentice); he also had a ring.

In the ninth of Geo. II. the fourteen new Serjeants gave, as of duty, 1409 rings, valued at £773. That call cost each Serjeant nearly £200. This ring-giving continued to the end; another custom, that of giving liveries to relatives and friends, was discontinued in 1759. In mediæval times the new Serjeants went in procession to St. Paul's, and worshipped at the shrine of Thomas à Becket; then to each was allotted a pillar, so that his clients might know where to find him. The Reformation put a summary end to the worship of St. Thomas, but the formality of the pillar lingered on till Old St. Paul's and Old London blazed in the Great Fire of 1666.

The mediæval lawyer lives for us to-day in Chaucer's famous picture :

A Sergeant of Lawe, war and wys,
That often hadde ben atte parvys,
Ther was also, ful riche of excellence.
Discret he was, and of great reverence :
He semede such, his wordes weren so wise,
Justice he was ful often in assise,
By patente, and by pleyn commissioun ;
For his science, and for his heih renoun,

Of fees and robes hadde he many oon.
So gret a purchasour was nowher noon.
Al was fee symple to him in effecte,
His purchasyng mighte nought ben enfecte.
Nowher so besy a man as he ther nas,
And yit he seemede besier than he was.
In termes hadde he caas and domes alle;
That fro the tyme of kyng William were falle.
Therto he couthe endite, and make a thing,
Ther couthe no wight pynche at his writyng;
And every statute couthe he pleyn by roote.
He rood but hoomly in a medlé coote,
Gird with a seynt of silk, with barres smale
Of his array telle I no lenger tale.

How lifelike that touch of the fussy man, who "seemed besier than he was"! But each line might serve as text for a long dissertation! The old court hours were early: the judges sat from eight till eleven, when your busy Serjeant would, after bolting his dinner, hie him to his pillar where he would hear his client's story, "and take notes thereof upon his knee." The parvys or pervyse of Paul's—properly, only the church door—had come to mean the nave of the cathedral, called also "Paul's Walk," or "Duke Humphrey's Walk," from the supposed tomb of Duke Humphrey that stood

there. In Tudor times it was the great lounge and common newsroom of London. Here the needy adventurer "dined with Duke Humphrey," as the quaint euphemism ran; here spies garnered in popular opinion for the authorities. It was the very place for the lawyer to meet his client, yet had he other resorts: the round of the Temple Church and Westminster are noted as in use for consultations.

Chaucer's Serjeant "rood but hoomly" because he was travelling; in court he had a long priest-like robe, with a furred cape about his shoulders and a scarlet hood. The gowns were various, and sometimes parti-coloured. Thus, in 1555 we find each new Serjeant possessed of one robe of scarlet, one of violet, one of brown and blue, one of mustard and murrey, with tabards (short sleeveless coats) of cloths of the same colours. The cape was edged, first with lambskin, afterwards with more precious stuff. In Langland's *Vision of Piers Plowman* (1362) there is mention of this dress of the Serjeants, they are jibed at for their love of fees and so forth,

after a fashion that is not yet extinct ! But *the* distinctive feature in the dress was the coif, a close-fitting head covering made of white lawn or silk. A badge of honour, it was worn on all professional occasions, nor was it doffed even in the King's presence. In monumental effigies it is ever prominent. When a Serjeant resigned his dignity he was formally discharged from the obligation of wearing it. To discuss its exact origin were fruitless, yet one ingenious if mistaken conjecture may be noticed. Our first lawyers were churchmen, but in 1217 these were finally debarred from general practice in the courts. Many were unwilling to abandon so lucrative a calling, but what about the tonsure ? "They were for decency and comeliness allowed to cover their bald pates with a coif, which had been ever since retained." Thus the learned Serjeant Wynne in his tract on the antiquity and dignity of the order (1765). In Tudor times, if not before, fashion required the Serjeant to wear a small skull-cap of black silk or velvet on the top of the coif. This is very clearly

shown in one of Lord Coke's portraits. Under Charles II. lawyers, like other folk, began to wear wigs, the more exalted they were the bigger their perukes. It was wittily said that Bench and Bar went into mourning on Queen Anne's death, and so remained, since their present dress is that then adopted. Serjeants were unwilling to lose sight of their coifs altogether, and it was suggested on the wig by a round patch of black and white, representing the white coif and the cap which had covered it. The limp cap of black cloth known as the "black cap" which the judge assumes when about to pass sentence of death was, it seems, put on to veil the coif, and as a sign of sorrow. It was also carried in the hand when attending divine service, and was possibly assumed in pre-Reformation times when prayers were said for the dead.

A few words will tell of the fall of the order. As far back as 1755 Sir John Willis, Chief Justice of the Common Pleas, proposed to throw open that court as well as the office of judge to barristers who were not Serjeants, but the suggestion came to nothing.

In 1834, the Bill for the establishment of a Central Criminal Court contained a clause to open the Common Pleas; this was dropped, but the same object was attained by a royal warrant, April 25, 1834. The legality of this was soon questioned and, after solemn argument before the Privy Council, it was declared invalid. In 1846 a statute (the 9 & 10 Vict. c. 54) to the same effect settled the matter, and the Judicature Act of 1873 provided that no judge need in future be a Serjeant. On the dissolution of Serjeants' Inn its members were received back into the Houses whence they had come.

As for centuries all the judges were Serjeants, the history of the order is that of the Bench and Bar of England; yet some famous men rose no higher, or for one reason or other became representative members. Such a one was Sir John Maynard (1602–1690). In his last years William III. commented on his venerable appearance: “He must have outlived all the lawyers of his time.” “If your Highness had not come I

should have outlived the law itself," was the old man's happy compliment. Pleading in Chancery one day, he remarked that he had been counsel in the same case half a century before, he had steered a middle course in those troubled times, but he had ever leant to the side of freedom against King and Protector alike. His share in the impeachment of Strafford procured him a jibe in Butler's *Hudibras*, yet it was said that all parties seemed willing to employ him, and that he seemed willing to be employed by all. Jeffreys, who usually deferred to him, once blustered out, "You are so old as to forget your law, Brother Maynard." "True, Sir George, I have forgotton more law than ever you knew," was the crushing retort. Macaulay has justly praised his conduct at the Revolution for that he urged his party to disregard legal technicalities and adopt new methods for new and unheard-of circumstances. Edmund Plowden (1518-1585) deserves at least equally high praise. He was so determined a student that "for three years he went not once out of the Temple."

He is said to have refused the Chancellorship offered him by Elizabeth as he would not desert the old faith. He was attacked again and again for nonconformity, but his profound knowledge of legal technicalities enabled him on each occasion to escape the net spread for him. He was an Englishman loyal to the core, and Catholic as he was opposed in 1555 the violent proceedings of Queen Mary's Parliament. The Attorney-General filed a bill against him for contempt, but "Mr. Plowden traversed fully, and the matter was never decided." "A traverse full of pregnancy," is Lord Coke's enthusiastic comment. On his death in 1584 they buried him in that Temple Church whose soil must have seemed twice sacred to this oracle of the law. An alabaster monument whereon his effigy reposes remains to this day. A less distinguished contemporary was William Bendloes (1516-1584), "Old Bendloes," men called him. A quaint legend reports him the only Serjeant at the Common Pleas bar in the first year of Elizabeth's reign. Whether there was no business, or merely half-guinea

motions of course, or the one man argued on both sides, or whether the whole story be a fabrication, 'tis scarce worth while to inquire.

I pass to more modern times. William Davy was made Serjeant-at-law in 1754. His wit combats with Lord Mansfield are still remembered. His lordship was credited with a desire to sit on Good Friday; our Serjeant hinted that he would be the first judge that had done so since Pontius Pilate! Mansfield scouted one of Davy's legal propositions. "If that be law I must burn all my books." "Better read them first," was the quiet retort. In recent days two of the best known Serjeants were Parry and Ballantine, the first a profound lawyer, the second a great advocate, but both are vanished from the scene.

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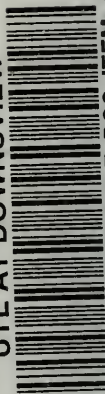


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